

## I. INTRODUCTION

On July 20, 2015, just after 1:00 a.m., POs Officer A and Officer B, while assigned to Beat XXXX, responded to an assault call at XXXX W. 39<sup>th</sup> Place. The victim of the assault, Subject 1, told the officers that he was walking towards his house at XXXX W. 39th Place, when he observed a man, now known as Subject 2, banging on his front door and screaming. As Subject 1 approached his porch, Subject 2 verbally threatened him before jumping off the porch and running through a gangway into Subject 1's rear yard. Subject 1 decided to continue walking past his house in order to avoid a confrontation with Subject 2, and he called 911. The officers obtained a physical description of Subject 2 from Subject 1 and began searching the neighborhood.

As POs Officer A and Officer B drove north on Albany from 39th Place, they heard someone screaming, apparently from the east alley of S. Albany Avenue, north of 39th Street.<sup>1</sup> Driving into the alley, POs Officer A and Officer B observed the garage door open behind XXXX S. Albany Avenue, and they heard glass breaking and screams coming from inside of the garage. Approaching the garage, POs Officer A and Officer B saw the entire garage in disarray and Subject 2, who matched the description given to them earlier by Subject 1, inside the garage screaming. As POs Officer A and Officer B exited their vehicle, Subject 2 walked out of the garage and approached them. Subject 2 was sweating profusely, his clothing was ripped, and he had blood on his face. The officers ordered Subject 2 to the ground and handcuffed him. Subject 2 told the officers that the garage was not his and that he broke in because he was hiding from gang members.

Officer B went to locate the owner of the garage, and Officer A stayed with Subject 2. Subject 2 continued to yell and began to rock his body back and forth and to roll on the ground. As Officer A attempted to restrain Subject 2, POs Officer D and Officer C, assigned to Beat XXXX, drove into the alley and parked their vehicle behind Beat XXXX's vehicle. The front-facing in-car camera in Beat XXXX's vehicle recorded Subject 2's actions and his interactions with various officers over the next 13 minutes. Officer C joined Officer B in speaking with the owner of the garage, and Officer D assisted Officer A in restraining Subject 2. Officer D placed his foot on Subject 2's head momentarily while attempting to hold Subject 2 down, and Officer D called for a transport van and shackles to transport Subject 2 from the scene. Officer A also contacted dispatchers and asked for assisting units to "step it up," prompting a large number of additional officers to respond.

Third-watch POs Officer E, Officer F, and Officer G, assigned to Beat XXX on an overtime assignment, responded to the alley and assisted in restraining Subject 2. Officer E leaned against Beat XXXX's vehicle and stood on Subject 2. POs Officer F and Officer G assisted in flex-tying Subject 2's ankles. Lieutenant A arrived while POs Officer E, Officer F, and Officer G assisted in restraining Subject 2. At some point, Subject 2 appeared to calm down, and Lieutenant A told all of the officer's present to back away from him. Subject 2 lay on the ground in the alley, apparently calm, for over four minutes, but then suddenly began to twist his body and kick his legs, moving underneath Beat XXXX's vehicle.

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<sup>1</sup> 39th Street is also commonly known as Pershing Road, and both street names are used interchangeably by witnesses and police personnel in interviews and reports associated with this incident.

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A group of officers pulled Subject 2 from beneath the vehicle and carried him to a waiting transport van. Officers attempted to secure Subject 2 on a bench in the van, but he kept twisting his body off the bench.<sup>2</sup> Because Subject 2 could not be securely seat-belted on the bench, Lieutenant A decided to call an ambulance to transport Subject 2 to the hospital; Subject 2 was left alone, lying on the floor of the transport van. When paramedics arrived, they entered the transport van and discovered that Subject 2 was dead. Lieutenant A declared the interior of the transport van a crime scene and contacted Officer H at the Crime Prevention and Information Center (“CPIC”) to initiate an Extraordinary Occurrence (“EO”). Officer H issued EO #XX-XX. After viewing the in-car video recording, IPRA Investigator 1, #XXX, converted the EO into a Complaint Register Log Number, alleging misconduct by the accused officers and supervisor.

## II. ALLEGATIONS

### A. Officer E

It is alleged that on July 20, 2015, at approximately 1:50 A.M., in the vicinity of XXXX W. Pershing Road, that **Officer E, Star #XXXX, Employee #XXXXXX, Unit #XXX:**

1. Used improper and excessive force toward Subject 2 when he used his foot to restrain Subject 2, and;
2. Failed to complete and submit a Tactical Response Report (“TRR”) to report/document the use of force he utilized toward Subject 2.

### B. Officer A

It is alleged that on July 20, 2015, at approximately 1:50 A.M., in the vicinity of XXXX S. Albany Avenue, that **Officer A, Star #XXXX, Employee #, Unit #XXX:**

1. Failed to perform any duty, in violation of Rule 5, in that he failed to intervene and/or ensure the safety of Subject 2 when he observed Officer E use improper and excessive force toward Subject 2 when Officer E used his foot to restrain Subject 2, and;
2. Failed to perform any duty, in violation of Rule 5, in that he failed to immediately request medical attention for Subject 2 who displayed signs of medical distress / serious illness.

### C. Officer D

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<sup>2</sup>Many officers were involved in lifting Subject 2, carrying him, and attempting to secure him in the van. Further investigation, as detailed in this summary report, would reveal that officers likely switched positions between the time they picked Subject 2 up and the time they arrived at the van, and that officers who were not captured on video picking up Subject 2 were involved in carrying him after they moved out of the in-car camera’s view.

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It is alleged that on July 20, 2015, at approximately 1:50 A.M., in the vicinity of XXXX S. Albany Avenue, that **Officer D, Star # XXXX, Employee #XXXXXX, Unit #XXX:**

1. Used improper and excessive force toward Subject 2 when he used his foot to restrain Subject 2, and;
2. Failed to perform any duty, in violation of Rule 5, when he failed to request medical assistance for Subject 2 who was in physical distress.

**D. Officer F**

It is alleged that on July 20, 2015, at approximately 1:50 A.M., in the vicinity of XXXX S. Albany Avenue, that **Officer F, Star # XXXX, Employee #XXXXXX, Unit #XXX:**

1. Failed to perform any duty, in violation of Rule 5, in that he failed to intervene and/or ensure the safety of Subject 2 when he observed Officer E use improper and excessive force toward Subject 2 when Officer E used his foot to restrain Subject 2, and;
2. Failed to perform any duty, in violation of Rule 5, in that he failed to immediately request medical attention for Subject 2 who displayed signs of medical distress / serious illness.

**E. Officer G**

It is alleged that on July 20, 2015, at approximately 1:50 A.M., in the vicinity of XXXX S. Albany Avenue, that **Officer G, Star # XXXX, Employee #XXXXXX, Unit #XXX:**

1. Failed to perform any duty, in violation of Rule 5, in that he failed to intervene and/or ensure the safety of Subject 2 when he observed Officer E use improper and excessive force toward Subject 2 when Officer E used his foot to restrain Subject 2, and;
2. Failed to perform any duty, in violation of Rule 5, in that he failed to immediately request medical attention for Subject 2 who displayed signs of medical distress / serious illness.

**F. Lieutenant A**

It is alleged that on July 20, 2015, at approximately 1:50 A.M., in the vicinity of XXXX S. Albany Avenue, that **Lieutenant A, Star #<sup>3</sup> XXXX, Employee #XXXXXX, Unit #XXX:**

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<sup>3</sup>Lieutenant A's star number is now #XX and his current rank is Captain of Police.

1. Failed to perform any duty, in violation of Rule 5, in that he failed to intervene and/or ensure the safety of Subject 2 when he observed a subordinate, Officer E, use improper and excessive force toward Subject 2 when Officer E used his foot to restrain Subject 2, and;
2. Failed to perform any duty, in violation of Rule 5, in that he failed to immediately request medical attention for Subject 2 who displayed signs of medical distress / serious illness.

### **III. APPLICABLE RULES AND LAW**

**Article IV.B of the Rules and Regulations of the Chicago Police Department<sup>4</sup> states in relevant part that:**

Supervisory members will be responsible for adherence to the Department's Rules, Regulations, Policies, Orders and Procedures. They are responsible and accountable for the maintenance of discipline and will provide leadership, supervision and continuing training and example to ensure the efficiency of unit operations. They have the responsibility to influence subordinate members and to motivate them to perform at a high level of efficiency. They have the responsibility for the performance of all subordinates placed under them and while they can delegate authority and functions to subordinates, they cannot delegate responsibility. They remain answerable and accountable for failures or inadequacies on the part of their subordinates.

**Article IV.C of the Rules and Regulations of the Chicago Police Department includes the following requirements:**

3. Know and conform to the Department's Policy, Rules, Regulations, Orders, Procedures and Directives.
5. Provide security and care for all persons and property coming into their custody.
7. Maintain a courteous and respectful attitude towards all persons.

**Article V, Rules of Conduct, of the Rules and Regulations of the Chicago Police Department includes the following prohibitions:**

RULE 2: Any action or conduct which impedes the Department's efforts to achieve its policy goals or brings discredit upon the Department.

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<sup>4</sup> The version of the Rules and Regulations of the Chicago Police Department referenced in this summary report were issued (and became effective) on April 16, 2015, and were in effect throughout the incident under investigation.

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RULE 5: Failure to perform any duty.

RULE 6: Disobedience of an order or directive, whether written or oral.

RULE 8: Disrespect to or maltreatment of any person, while on or off duty.

RULE 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

RULE 10: Inattention to duty.

RULE 11: Incompetency or inefficiency in the performance of duty.

**General Order G03-02: Use of Force Guidelines<sup>5</sup>**

In relevant part, Section III, “Department Policy,” of this general order requires the following:

A. When a Department member engages a member of the public, the member will do so in such a manner which affords that person the respect and dignity to which all persons are entitled. The use of excessive force or unwarranted physical force or unprofessional conduct by a Department member will not be tolerated under any circumstances . . . .

B. Department members will use an amount of force reasonably necessary based on the totality of the circumstances to perform a lawful task, effect an arrest, overcome resistance, control a subject, or protect themselves or others from injury.

C. As set forth by the United States Supreme Court in *Graham v. Connor*, 490 U.S. 386 (1989), the central inquiry in every use of force is whether the amount of force used by the officer was objectively reasonable in light of the particular circumstances faced by the officer.

1. Reasonableness is not capable of precise definition or mechanical application. Circumstances that may govern the reasonableness of using a particular force option include, but are not limited to:

- a. the severity of the crime at issue,
- b. whether the subject poses an immediate threat to the safety of officers or others,
- c. whether the subject is actively resisting arrest or attempting to evade arrest by flight.

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<sup>5</sup> The version of General Order G03-02 referenced in this summary report was effective October 1, 2002, and in effect throughout the incident under investigation.

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2. The reasonableness of a particular use of force will be judged under the totality of the circumstances viewed from the perspective of a reasonable officer on the scene.

D. The Department has adopted a Use of Force Model in order to provide members guidance on the reasonableness of a particular response option.

E. All Department members are obligated to ensure compliance with all laws and Department regulations. If a member knows that another Department member is using excessive force against a subject, the member will take appropriate action. The action required by the member will depend upon the circumstances of the incident. However, appropriate actions may include, but are not limited to, verbal or physical intervention, immediate notification to a supervisor, or a direct order by a supervisor to cease the use of excessive force.

F. Sworn members and detention aides in the performance of their duties will complete a Tactical Response Report as specified in the Department directive entitled "Incidents Requiring the Completion of a Tactical Response Report."

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H. Department members will seek medical assistance for an arrestee who has injuries or illnesses consistent with the procedures outlined in the Department directives entitled "Processing Persons Under Department Control" and "Hospitalized Arrestees."

**General Order G03-02-01: The Use of Force Model<sup>6</sup>**

Section II of this general order establishes the following:

The Department utilizes a Use of Force Model to provide guidance on the appropriate amount of force to be used to effect a lawful purpose. The Use of Force Model employs the progressive and reasonable escalation and de-escalation of member-applied force in proportional response to the actions and level of resistance offered by a subject. Such response may progress from the member's actual presence at the scene to the application of deadly force.

A. The primary objective of the use of force is to ensure control of a subject with the reasonable force necessary based on the totality of the circumstances.

B. Whenever reasonable, members will exercise persuasion, advice, and warning prior to the use of physical force.

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<sup>6</sup> The version of General Order G03-02-01 referenced in this summary report was effective May 16, 2012, and was in effect throughout the incident under investigation.

C. When force is applied, a member will escalate or de-escalate to the amount of force which is reasonably necessary to overcome the subject's resistance and to gain control.

1. Members are not required to start at the lowest levels of the Use of Force Model; they will select the appropriate level of force based on the subject's actions.
2. Members will modify their level of force in relation to the amount of resistance offered by the subject.
  - a. As the subject offers less resistance, the member will lower the amount or type of force used.
  - b. As the subject increases resistance, the member may increase the amount or type of force used.

#### **General Order G03-02-02: Force Options<sup>7</sup>**

Section III.B.2 of this general order defines an “active resistor” as “a person whose actions attempt to create distance between that person and the member’s reach with the intent to avoid physical control and/or defeat the arrest. This type of resistance includes gestures ranging from evasive movement of the arm, through flailing arms, to full flight by running.” The force options available to an officer faced with an active resistor include holding techniques, pain compliance techniques, and stunning.<sup>8</sup>

Section III.C of this general order defines an “assailant” as “a subject who is using or threatening the imminent use of force against himself/herself or another person.” The force options available to an officer faced with an assailant include all of the options available against an active resistor, with added options including direct mechanical techniques. “Direct mechanical techniques” are defined as “hard, concentrating, striking movements such as punching or kicking, or powerful locks and pressures. These techniques can be combined with take-downs or pins against the ground or other objects.”

Section IV of this general order, titled “**Post-Use of Force Positioning and Monitoring,**” requires the following:

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<sup>7</sup> The version of General Order G03-02-02 referenced in this summary report was effective March 11, 2015, and rescinded on January 1, 2016. This order was in effect at the time of the incident under investigation.

<sup>8</sup> “Holding techniques” are defined as “a firm grip, grabbing an arm, wristlocks, and come-along holds (i.e., escort holds that are not elevated to pain compliance techniques), as well as any combination of the above.” “Pain compliance techniques” are defined as “techniques designed to amplify nonimpact pressures and pain in order to increase the potential for controlling a subject,” and include “applying pressure to pain sensors in the skin covering bone and joints (i.e., armbars and amplified wristlocks) to amplify pain . . . .” “Stunning” is defined as “diffuse-pressure striking or slapping and is an attempt to increase control by disorienting the subject and interfering with the subject’s ability to resist.”

After gaining control of a subject, members will:

- A. avoid sitting, kneeling, or standing on a subject's chest, which may result in chest compression, thereby reducing the subject's ability to breath.
- B. position the subject in a manner to allow free breathing. Whenever feasible, the subject will not be placed on the subject's stomach.
- C. monitor an arrestee until transported to a secure location.
- D. seek medical attention for an arrestee who has injuries or illnesses consistent with the procedures outlined in the Department's directives entitled "Processing Persons Under Department Control" and "Hospitalized Arrestees."

**General Order G03-02-05: Incidents Requiring the Completion of a Tactical Response Report (TRR)<sup>9</sup>**

Section III.A of this general order requires that a TRR be completed for the following reportable use-of-force incidents:

1. All incidents involving:

- a. cooperative actions or passive resistance by a subject when the subject is injured or alleges injury resulting from the member's use of a force option.
- b. active resistance of a subject.

**EXCEPTION:** A Tactical Response Report is NOT required when:

- (1) the subject's only action of resisting is fleeing; and
- (2) the member's actions did not extend beyond verbal commands and/or control holds utilized in conjunction with handcuffing and searching techniques which do not result in injury or allegation of injury.
- c. an assailant whose actions are aggressively offensive with or without weapons who is using or threatening the imminent use of force against the member that will likely cause physical injury.
- d. obstructing a Officer when the obstructing is a physical act directed at the officer.

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<sup>9</sup> The version of General Order G03-02-05 referenced in this summary report was effective October 30, 2014, and rescinded on August 18, 2016. This order was in effect at the time of the incident under investigation.

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2. All incidents involving a Department member's:

. . .

d. use of strikes with an impact weapon, kicks, knee strikes, elbow strikes, closed-hand strikes or punches, takedowns, emergency handcuffing, and other direct mechanical techniques.

Section III.B of this general order provides, in part, that a TRR is not required for the following types of incidents:

1. The use of escort holds, pressure-compliance techniques, and firm grips which do not result in an injury or allegation of injury.
2. Control holds, wristlocks, and armbars utilized in conjunction with handcuffing and searching techniques which do not result in injury or allegation of injury.
3. That force necessary to overcome passive resistance due to physical disability or intoxication which does not result in injury or allegation of injury.

Section IV.B.2 of this general order requires that an officer submit a completed TRR to his or her immediate supervisor for review before the end of his or her tour of duty.

**General Order G04-01: Preliminary Investigations<sup>10</sup>**

Section IV.A of this general order requires, in relevant part, that "Upon arrival, preliminary investigators will: 1. Render aid to the injured."

**General Order G06-01-01: Field Arrest Procedures<sup>11</sup>**

Section IX.A requires the following: "In the event that an arrestee requires immediate medical care, the arrestee will be transported to the nearest approved emergency room, as delineated by Department directive entitled "Approved Medical Facilities," prior to any further arrest processing.

**Special Order S03-06: Squadrol Operating Procedures<sup>12</sup>**

This special order provides that a squadrol can be used to transport a sick or injured arrestee directly to an approved medical facility, and that a squadrol can be used to transport a person in

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<sup>10</sup> The version of General Order G04-01 referenced in this summary report was effective on September 8, 2004, and rescinded on October 13, 2015. This order was in effect at the time of the incident under investigation.

<sup>11</sup> The version of General Order G06-01-01 referenced in this summary report was effective on December 19, 2012, and rescinded on November 12, 2015. This order was in effect at the time of the incident under investigation.

<sup>12</sup> The version of Special Order S03-06 referenced in this summary report effective February 23, 2012, and in effect at the time of the incident under investigation.

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need of mental treatment to a designated mental health intake facility. While permitting this use of a squadrol to transport a sick or injured arrestee, this order also specifies the circumstances under which a squadrol can be used for this purpose in section VI.A:

A squadrol will be used to transport sick or injured arrestees when:

1. a fire department ambulance is not available, and
2. a medical emergency exists.

NOTE: A medical emergency exists when in the members [sic] professional judgment a person is in need of immediate medical attention for a sickness or injury and delay in receiving that attention may endanger his or her life.

**Illinois Statute**

**Section 7-5 of the Criminal Code of 2012, 720 ILCS 5/7-5(a),** states in part: “A peace officer . . . need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He is justified in the use of any force which he reasonably believes to be necessary to effect the arrest and of any force which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest. However, he is justified in using force likely to cause death or great bodily harm only when he reasonably believes that such force is necessary to prevent death or great bodily harm to himself . . . or when he reasonably believes both that: (1) Such force is necessary to prevent the arrest from being defeated by resistance or escape; and (2) The person to be arrested has committed or attempted a forcible felony which involves the infliction or threatened infliction of great bodily harm or is attempting to escape by use of a deadly weapon, or otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay.”

**IV. INVESTIGATION**

IPRA<sup>13</sup> gathered relevant physical and documentary evidence associated with this incident. Additionally, IPRA obtained statements from numerous individuals including all accused officers. A summary of this evidence follows.

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<sup>13</sup> On July 20, 2015, at approximately 2:31 a.m., Officer H, #XXXX of CPIC contacted the Independent Police Review Authority and registered this incident as an Extraordinary Occurrence on behalf of Lieutenant A. (Attachment 1)

#### A. IPRA Preliminary Reports

Investigator 2 and Supervising Investigator 1 responded to the scene at XXXX W. Pershing Road. The IPRA Preliminary Report reflects the information provided by Deputy Chief Superintendent 1, who was the on-scene CPD incident commander. Deputy Chief Superintendent 1 told investigators that officers assigned to Beat XXXX, POs Officer C and Officer D, received an assignment for a disturbance at XXXX West 39th Place based on a 911 call. Officers assigned to Beat XXXX, POs Officer A and Officer B, arrived first on the scene and spoke to the 911 caller, Subject 1. Subject 1 said that an individual, now known as Subject 2, had been on Subject 1's porch creating a disturbance, but that Subject 2 had run off before the police arrived. POs Officer A and Officer B obtained a description of Subject 2 and proceeded to tour the neighborhood to search for Subject 2.

POs Officer A and Officer B heard screaming and items breaking; they then observed Subject 2 in the alley behind the residence of XXXX S. Albany Avenue. POs Officer A and Officer B attempted to restrain Subject 2,<sup>14</sup> who then began to kick and bang his head on the ground. Lieutenant A arrived on the scene and called for a van to take Subject 2 to the hospital. Officers assigned to Beat XXXX, POs Officer Y and Officer Z, responded and carried Subject 2 to the van in order to transport him to the hospital.<sup>15</sup> Officers restrained Subject 2's legs with flex cuffs.<sup>16</sup> An ambulance was requested and CFD Ambulance #XX arrived at approximately 1:50 a.m. The paramedics found Subject 2 unresponsive and attempted to resuscitate him. At approximately 3:25 a.m., Subject 2 was pronounced dead by a Medical Examiner investigator.

Deputy Chief Superintendent 1 escorted IPRA investigators to the van, which was parked eastbound at XXXX W. Pershing Road. Investigator 2 observed Subject 2 lying face down on the floor of the van, with his head toward the rear doors. Subject 2 was wearing a sleeveless undershirt and red shorts. The red shorts were pulled down to Subject 2's ankles, and his ankles were restrained with flex cuffs.

Deputy Chief Superintendent 1 then escorted the investigators to Beat XXXX's patrol vehicle. The vehicle's in-car camera surveillance system had captured part of the incident. The vehicle was parked northbound at the mouth of the east alley of Albany Avenue.

The investigators viewed the video, and in the recording Subject 2 is seen lying handcuffed on the ground next to Beat XXXX's marked patrol SUV. At one point, Subject 2 attempts to slide himself under the police vehicle but is pulled back by the officers. Additional officers arrive on the scene. While still on the ground, Subject 2 moves himself toward the rear of the vehicle and again slides underneath, near the muffler. Eventually, several officers pick up Subject 2 and carry

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<sup>14</sup> Further investigation, as detailed in this summary report, would reveal that other officers were also involved in restraining Subject 2.

<sup>15</sup> Further investigation, as detailed in this summary report, would reveal that Officers Officer Y and Officer Z were not the officers who carried Subject 2 to the van.

<sup>16</sup> Further investigation, as detailed in this summary report, would reveal that the flex-cuffs were applied to Subject 2's ankles before he was carried to the van.

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him out of view. Deputy Chief Superintendent 1 said that the recording had been saved. (Attachments 4 and 37)

**B. Chicago Police Department Reports**

The Department Reports (RD# HY-XXXXX for Burglary and HY-XXXXX for Death in Custody) documented that the officers identified in this summary report responded to an incident at XXXX S. Albany Avenue on July 20, 2015. These reports documented the same general information provided in the introduction of this summary report. (Attachments 11 and 16)

Officer A's Tactical Response Report (TRR), filed on July 20, 2015, documented that Subject 2 did not follow verbal direction, stiffened, pulled away, and kicked his legs. Officer A responded with member presence, verbal commands, and he "held shoulder and arm down to stop subject from hurting himself and officers." Officer A checked boxes on the report classifying Subject 2 as both a passive resistor and an active resistor. The report also documents that Subject 2 was under the influence, was injured, and was provided with medical treatment by CFD Ambulance XX. The TRR was approved at the lieutenant-or-above level by Lieutenant A, who wrote, "Based on available information the officer acted properly and within Department Guidelines." (Attachment 13)

Officer D's Tactical Response Report (TRR), filed on July 20, 2015, documented that Subject 2 did not follow verbal direction, stiffened, pulled away, and kicked his feet. Officer D responded with member presence, verbal commands, and he held Subject 2's head and feet down to prevent injury. Officer D checked boxes on the report classifying Subject 2 as both a passive resistor and an active resistor. The report also documents that Subject 2 was under the influence, was injured, and was provided with medical treatment by CFD Ambulance XX. The TRR was approved at the lieutenant-or-above level by Lieutenant A, who wrote, "Based on available information the officer acted properly and within Department Guidelines." (Attachment 14)

**C. OEMC Recordings<sup>17</sup>**

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<sup>17</sup> OEMC PCAD Reports were collected and made part of this investigation. These reports show the times that police personnel were dispatched, along with remarks entered into the event timelines by dispatchers. Separate PCAD reports were generated for Subject 1's 911 call, administrative notifications that were made by OEMC after Subject 2's death, the medical examiner's response, and the CPD evidence technician's response. The information recorded in the PCAD reports is consistent with statements given by witnesses and involved officers. (Attachments 24, 25, 26 and 27)

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A man who identified himself as Subject 1<sup>18</sup> called 911 and spoke with an OEMC call-taker beginning at 12:57:10 a.m. on July 20, 2015. OEMC's recording of the call was obtained by IPRA. Subject 1 told the call-taker, "I have some dude, some crazy dude running around the street on 39th Place and Albany. . . I'm coming from work and he's just knocking hard on my door. . . . I don't know if he's on drugs or something, but he's just like tweaking and he was just punching my house. . . . He ran away and he was like, 'Bitch ass nigger,' and this and that, and I don't even know him, and I don't know what's going on with this guy. I just want to make sure he doesn't do nothing to nobody because he's just like tweaking or I don't know if he's not OK for his mind. . . . He's like crazy, he ran through the backyard and he's like talking by himself . . ." When the call-taker asked Subject 1 if he knew the man, Subject 1 said, "He's just some dude from the block." The call-taker told Subject 1 that police would respond. An OEMC dispatcher contacted Beat XXXX by radio and assigned that beat to the call, providing the address of XXXX W. 39th Place. The dispatcher said, "Subject 1 says a known male who appears to be high from drugs is threatening him. No description. Nothing further." (Attachments 156 and 157)

**D. In-Car Camera Recording**

The in-car camera video recording<sup>19</sup> from Beat XXXX's patrol vehicle was obtained by IPRA. The following timeline was created based on the video recording, OEMC 911 and police dispatch recordings, OEMC unit and event queries, Chicago Fire Department records, and statements from the involved officers.<sup>20</sup>

Time	Activity
0:26:01	Beat XXX (POs Officer E, Officer F, and Officer G) check the license plate number of a car registered to Subject 2 at the On the Go gas station at XXXX South Kedzie Avenue. A dog was in the car, but the car was not otherwise occupied. The officers checked the car after an unknown civilian reported an erratic driver in a car matching the description of the parked vehicle. The officers left the gas station after being unable to locate the driver and after determining that the car had not been reported stolen.
0:57:10 - 0:58:35	Subject 1 calls 911 and reports a "crazy dude" running around the street at 39th and Albany.
1:00:14 - 1:00:34	Beat XXXX (Officer D and Officer C) are dispatched to the call at 39th and Albany.
1:06:01	Beat XXXX (Officer B and Officer A) radio OEMC and state that they have taken the call and that the other unit can disregard.
1:06:01 - 1:10:44	Officer B and Officer A meet with Subject 1, who tells them about his encounter with a man who was on his porch, banging on the door of his house and making verbal threats. Subject 1 tells the officers that the man is a known gang member from the neighborhood known to hide in the bushes at a nearby school and to jump out at people. The officers obtained a physical description of the man from Subject 1, and then drove around Davis Elementary School looking for him. The officers heard loud yelling, banging, and the sound of glass breaking coming from an alley and went to investigate; they found Subject 2 inside an open

<sup>18</sup> "Subject 1" was later identified as Subject 1 based on his contact with CPD officers on the night of the incident and his interview with IPRA.

<sup>19</sup> Attachment 37.

<sup>20</sup> See Attachment 230 for an explanation of how this timeline was created and the evidence that was used.

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	garage behind XXXX South Albany Avenue. Subject 2 exited the garage and approached the officers, and they ordered him to the ground and handcuffed him behind his back. Subject 2 had blood on his face and was sweating profusely; he told the officers that he broke into the garage to hide from gangbangers. Officer A stayed with Subject 2 in the alley behind the garage while Officer B went to locate the homeowner whose garage had apparently been broken into by Subject 2.
1:10:44 - 1:11:00	Beat XXXX (Officer D and Officer C) pull into the alley behind Beat XXXX's marked SUV. Officer A is standing in the alley on the driver's side of Beat XXXX's SUV, and Subject 2 is lying on his belly in the alley. Subject 2 is handcuffed with his hands behind his back. Officer A's left foot is on Subject 2's back, and Officer A's right foot is on the ground. Subject 2 rocks back and forth on his belly, and Officer A takes his foot off of Subject 2's back after about ten seconds. Officer A then leans down and appears to grab one of Subject 2's arms with his right hand. POs Officer D and Officer C walk into view and partially obscure the camera's view of Subject 2 and Officer A. Officer B walks out of an open garage and approaches the driver side of Beat XXXX's SUV.
1:11:00 - 1:12:06	Officer A stands next to Subject 2 and the other officers walk out of view of the camera. Subject 2 rocks back and forth and appears to be speaking or shouting. Subject 2 then rolls over onto his back and pushes himself into a sitting position with his back against Beat XXXX's SUV.
1:12:06 - 1:12:22	Officer A continues to stand next to Subject 2. Officer D walks out of the open garage and walks towards Beat XXXX's vehicle before walking out of view. Officer D appears to be talking into his radio microphone.
1:12:14	Beat XXXX (Officer D) radios OEMC and ask to be added back to the event. Officer D asks if a "wagon" is available.
1:12:39	Beat XXXX (Officer Z and Officer Y, assigned to a prisoner transport van) are dispatched to assist.
1:12:22 - 1:13:12	Subject 2 continues to rock back and forth and to periodically kick and retract his legs. Subject 2's upper body is sometimes blocked from view by Beat XXXX's SUV. Officer A continues to stand next to Subject 2.
1:13:12 - 1:13:31	Officer D walks back into view and shines his flashlight down at Subject 2. Subject 2 is still seated in the alley, periodically rocking his upper body back and forth. Officer D walks out of view towards the garage.
1:13:31 - 1:14:13	Officer A continues to stand by Subject 2. Subject 2 rolls onto his side, sits back up, and then rolls onto his back. Subject 2 rolls towards Beat XXXX's SUV, and his body is momentarily obscured from the camera by the SUV. Subject 2 then sits back up, and appears to be talking or shouting. Subject 2 rolls onto his side again. Officer D walks back into view and appears to be speaking on his radio as he walks towards Beat XXXX's SUV and out of view of the camera.
1:14:09	Beat XXXX (Officer D) contacts OEMC by radio and asks for Beat XXXX to "step it up"; he also asks if XXXX has shackles. Unintelligible screaming is heard in the background of XXXX's radio transmission.

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1:14:13 - 1:14:34	Subject 2 rocks his body and begins to scoot along the ground on his buttocks, on the driver's side of Beat XXXX's SUV, moving towards the rear of the SUV. As Subject 2 moves towards the rear of the SUV, Officer A reaches down and places his hands on Subject 2's shoulders. Subject 2 appears to pull away and to roll onto his side; Officer A grabs Subject 2's pant leg briefly, and then pushes Subject 2's shoulders towards the SUV. Subject 2 rolls towards the SUV and continues to rock his body back and forth, and Officer A leans down, places his knee against Subject 2's chest, and grabs Subject 2's right upper arm. Officer D walks back into view and approaches Officer A and Subject 2.
1:14:34 - 1:14:42	Officer D places his right foot on the right side of Subject 2's lower torso; Officer D's left foot is planted on the ground. After about one second, Officer D removes his right foot from Subject 2's torso and places the same foot on the right side of Subject 2's head. Officer D appears to exert downward pressure with his foot and Subject 2's head moves towards the ground; the left side of Subject 2's face briefly touches the ground, but Subject 2 then lifts his head up again while also thrashing his right leg, kicking Officer D in the front of Officer D's left thigh. Officer D appears to momentarily lose his balance and his foot slips off of Subject 2's head. The total time where Officer D's foot is in contact with Subject 2's head is approximately 2 to 3 seconds. Subject 2's right temple momentarily touches the muffler of Beat XXXX's SUV after Officer D's foot slips.
1:14:48	Officer A keys his radio and says, "Step it up."
1:14:42 - 1:15:03	Officer D uses his right foot, and then his left foot, to press Subject 2's legs against the ground while Subject 2 continues to kick his legs and twist his upper body. Officer D momentarily uses his right hand to balance himself against the driver-side rear corner of the SUV, and Subject 2 momentarily grabs Officer A's left knee with his right hand. As Subject 2 continues to twist his body, Officer A begins to kneel down and to press against Subject 2's back with his hands. When Officer A moves forward while kneeling, he pushes against Officer D's hand, and Officer D's hand comes off of the SUV. Subject 2 comes to rest behind the SUV, face-down on the ground, with his feet facing the garage and his head facing the passenger side of the SUV. Officer D briefly braces himself by placing his right hand on Officer A's back, and Officer D then kneels down and holds Subject 2's legs with both of his hands, pressing Subject 2's legs against the ground.
1:15:03 - 1:15:16	Subject 2, who is still lying on his belly, kicks his legs, and Officer D appears to lose hold of Subject 2's legs. Officer D stands up and takes a step towards the front of Beat XXXX's SUV, stepping over Subject 2's legs. Officer D again braces himself against the SUV and attempts to use his feet to press down against Subject 2's legs. Subject 2 continues to kick and to twist his body, while Officer A continues to use both hands to press down on Subject 2's back.
1:15:16 - 1:15:22	POs Officer B and Officer C come out of the open garage and walk towards Subject 2, Officer A, and Officer D. Three additional officers (POs Officer E, Officer F, and Officer G) walk into view from behind Beat XXXX's vehicle.
1:15:22 - 1:16:30	Officer E stands with his back to Beat XXXX's SUV and steadies himself by placing his hands against the SUV; he places his right foot on Subject 2's back or shoulder, and stands with his right foot on Subject 2 and his left foot on the ground, periodically appearing to shift his balance and reposition his foot. The exact position of Officer E's right foot is obscured by the camera angle and by the body of Officer F. Officer F walks to a position between the front of Beat XXXX's vehicle and Subject 2; he then kneels down and uses his hands to hold Subject 2's back and/or arms. Officer F lets go of Subject 2 and stands back up once before kneeling down again. Officer F then stands up again and walks out of view of the camera, heading towards the back of Beat XXXX's vehicle. Officer F would later tell

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	IPRA investigators that he walked back to Beat XXX's vehicle to retrieve zip ties for Subject 2's legs. Officer G walks into a position between the front of Beat XXXX's vehicle and Subject 2, standing at Subject 2's feet. Officer G steps briefly towards the center of the alley, closer to Subject 2's head, but then steps towards the side of the alley, standing in the shadows between Subject 2's feet and the edge of the alley. Officer B stands near Subject 2's feet, to the right of Officer D, but the camera's view of Officer B is largely obstructed by the body of Officer G; when visible Officer B appears to be using his feet in an attempt to control Subject 2's kicking legs. After Officer G moves, Officer B can be seen standing at Subject 2's feet with his back to the camera in Beat XXXX's vehicle; Officer B's feet are not visible. Officer A continues to hold Subject 2's arms; he briefly rises from a kneeling position to a standing position while leaning forward, then lowers back to his knees. Officer C walks with a civilian, Civilian 2, from the driver side of Beat XXXX's SUV to the passenger side of the SUV. Officer C taps on Officer E's chest and shines a flashlight down at Subject 2, asking Civilian 2 if he recognizes Subject 2. Officer C and Civilian 2 then walk back around the front of Beat XXXX's SUV and into the open garage.
1:16:30 - 1:16:51	POs Officer A, Officer D, Officer E, Officer B, and Officer G maintain their positions. Subject 2 remains lying face down; he is no longer visibly kicking (the camera's view of his lower body is obstructed by the hood of Beat XXXX's vehicle), but he rocks his upper body and moves his arms behind his back as the officers continue to hold him down. Officer E continues to stand with his back to Beat XXXX's SUV, bracing his hands against the rear of the vehicle. Officer E's right foot remains on Subject 2, and his left foot remains on the ground. Officer E's right leg moves slightly as Subject 2 rocks his upper body.
1:16:51 - 1:17:04	Officer E momentarily steps off of Subject 2. Officer E repositions himself and stands with his right side adjacent to the rear of Beat XXXX's SUV, bracing himself against the SUV with his right hand. Officer E places his right foot on Subject 2 (the camera view makes it difficult to tell if Officer E's foot is on Subject 2's back, shoulder, or neck) while his left foot remains on the ground, occasionally shifting position as Officer E maintains his balance and presses against Subject 2 with his right foot. The other officers maintain their positions.
1:17:04 - 1:18:00	Officer E raises his left foot from the ground and turns his body towards Beat XXXX's SUV; Officer E's right foot remains on Subject 2, appearing to place all of his body weight on Subject 2. Officer E uses both hands to brace himself against the rear of the SUV, with the front of his body now facing the SUV. Officer E lets go of the SUV with his left hand and repositions his left foot; it is not possible to determine if his left foot is on the ground or suspended above the ground, while his right foot remains on Subject 2. Officer F returns with zip ties. Officer F kneels down and zip-ties Subject 2's feet with the assistance of Officer G and Officer D. Officer G stands up, while Officer F continues to hold or manipulate Subject 2's feet. The other officers maintain their positions.
1:17:54	Beat XXX (Lieutenant A) contacts OEMC by radio and says, "Everything is fine here."
1:18:00 - 1:18:34	Lieutenant A walks from behind Beat XXXX's vehicle into view of the camera. Lieutenant A stands in front of Beat XXXX's vehicle, in the space behind Beat XXXX's SUV. Lieutenant A stands in front of Subject 2 and Officer E, partially obstructing the camera's view of Officer E. Several other officers walk into view of Beat XXXX's camera and walk around Subject 2 and the earlier-arriving officers, but do not appear to take part in restraining Subject 2.
1:18:15	Lieutenant A contacts OEMC by radio and says, "We don't need the shackles any longer."
1:18:34 - 1:20:11	Officer E steps backwards towards the passenger side of Beat XXXX's SUV and is no longer standing on Subject 2. The officers who were kneeling around Subject 2 also stand up. Subject 2 is out of the camera's view, but Lieutenant A and multiple officers appear to be looking down at him. Subject 2 does not appear to be moving.

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1:20:11 - 1:22:42	Lieutenant A steps over Subject 2 and walks towards the open garage. Other officers continue to stand in the alley and look down at Subject 2 while moving in and out of the camera's view. Subject 2 does not appear to be moving.
1:22:42 - 1:23:03	Subject 2 suddenly twists his body and kicks his feet, turning over so that he is facing up with his head towards the driver's side of Beat XXXX's SUV. He moves towards the SUV, eventually twisting and turning until his body is underneath the SUV and his chest appears to touch the SUV's muffler. He then spins around, still face up, but with his feet towards the driver's side of the SUV and his head towards the passenger side. He is still underneath the SUV, and his waist, belly, and chest appear to contact the muffler. The SUV moves up and down, apparently as a result of Subject 2 pressing up against the muffler or tailpipe.
1:23:03 - 1:23:50	Multiple officers pull Subject 2 out from underneath the SUV. Officer K opens the driver's side front door of the SUV; he later tells IPRA investigators that he turned off the ignition after hearing the "sizzling" of Subject 2's skin against the vehicle's exhaust. Subject 2 briefly lies on his back in the alley; he raises his upper body and appears to be shouting. Officer A waves at other officers in the alley, apparently calling for additional assistance. Officers then pick Subject 2 up and carry him towards the rear of Beat XXXX's vehicle, out of view of the camera. The officers carrying Subject 2 are POs Officer A, Officer D, Officer B, and Officer K, and others. Officer L told IPRA investigators that he also assisted in carrying Subject 2 part of the way from the alley to the transport van after other officers struggled to hold Subject 2, but this occurred after Subject 2 and the officers moved out of view of the camera. Lieutenant A stands on the driver's side of Beat XXXX's SUV and shines his flashlight down at Subject 2, appearing to watch as the officers pick up Subject 2.
1:23:50 - 1:25:36	Officers carry Subject 2 to Beat XXXX'S (Officer Y and Officer Z) transport van, parked on West Pershing Road near the entrance to the alley behind the houses on the east side of the 3800 block of South Albany Avenue. The officers initially carry Subject 2 head-first into the prisoner compartment in the rear of the van and attempt to secure him to a bench using the seatbelts in the van. Subject 2 continues to struggle and shout, and the officers determine that it will not be possible to safely secure him on the bench. Subject 2 lies on his side on the floor of the prisoner compartment of the van, now with his head towards the rear of the van.
1:25:36	Officer D contacts OEMC by radio and asks OEMC to "roll EMS." Lieutenant A later told IPRA investigators that he gave the order to call for the ambulance, and Officer D confirmed that he made the radio transmission after speaking with Lieutenant A.
1:25:36 - 1:33:11	Officer B told IPRA investigators that he rolled Subject 2 onto his side on the floor of the van and that he initially stayed with Subject 2 while waiting for the ambulance to arrive. Officer B recalled being alone with Subject 2 in the van. At some point before the ambulance arrived, Officer B exited the van, leaving Subject 2 alone in the prisoner compartment with the van's rear doors partially closed. Officer B told investigators that Subject 2 was still moving when Officer B exited the van. Officer K later told detectives that Lieutenant A "called the officers out of the van" while waiting for the ambulance.
1:28:04	CFD Ambulance XX dispatched.
1:33:11	CFD Ambulance XX on scene.
1:33:11 - 1:38:12	CFD Ambulance personnel (Commander 1 and Paramedic 1) later tell investigators that they arrived on scene and were directed to the prisoner van by police. They found Subject 2 lying on his side on the floor of the rear prisoner compartment of the van. They described Subject 2 as unresponsive; his body was warm to the touch. After examining Subject 2 further and attaching a cardiac monitor to his body, they determined that he was dead. Commander 1 told Lieutenant A that Subject 2 was dead.

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1:34:00	CFD Ambulance personnel "at patient."
1:35:00	CFD Ambulance personnel report that the patient has no pulse, no blood pressure, and is not breathing.
1:38:12	CFD Ambulance personnel report that an EKG has been administered and that the patient is in asystole [no electrical activity in the patient's heart].
1:43:52	Beat XXXX (Officer D and Officer C) contacts OEMC by radio and asks, "What time did we call for the ambulance?" The dispatcher replies, "0127 hours."
1:48:17	Beat XXXX (Officer B and Officer A) radio OEMC and ask for a report number to be assigned to the incident. The dispatcher assigns the report number.
1:50:29	Beat XXX (Lieutenant A) contacts OEMC by radio, informs the dispatcher that several officers will be held at the scene and says, "This guy is dead now."

**E. Civilian Interviews and Canvass**

On July 21, 2015, IPRA canvassed the immediate vicinity of XXXX S. Albany Avenue. This canvass resulted in IPRA obtaining statements from three neighbors.<sup>21</sup> IPRA contacted Civilian 1 of XXXX S. Albany Avenue, the location of the alleged garage burglary. Civilian 1 said that, on the night of the incident, he and his father, Civilian 2, heard a series of loud noises coming from their detached garage. Civilian 1 and his father went to investigate the noises and observed several Officers surrounding a Hispanic male, now known to be Subject 2, lying on the ground in the alley behind their garage. Subject 2 was wearing red shorts and a white tank top, and he was lying on his stomach between two squad cars that were parked in the alley. Civilian 1 said that Subject 2 was constantly rocking back and forth on his stomach while screaming and yelling. Civilian 1 could not tell if Subject 2 was handcuffed. Several Officers picked Subject 2 up, parallel to the ground, and carried him south toward Pershing Road, where there were several other police vehicles parked near the mouth of the alley. Civilian 1 could still hear Subject 2 yelling as he was being carried. The officers carried Subject 2 out of Civilian 1's view, and there were additional officers at the scene that prevented Civilian 1 from leaving the garage. (Attachment 9)

During this canvass, IPRA investigators left a business card for a resident, Civilian 3, at XXXX S. Albany Avenue. On July 22, 2015, Civilian 3 called IPRA and said that she was home on July 20, 2015, at about 1:50 A.M., when she heard a man's voice shouting outside. The shouting sounded like it was coming from the garage area at XXXX S. Albany Avenue. Civilian 3 heard a man shouting repeatedly, "Ah, Ah!" A moment later, a police car arrived at the alley and Civilian 3 observed a white female officer and a male officer approach her garage. Civilian 3 believed that a man was possibly breaking into her garage. Civilian 3 then observed a police van or a squadrol arrive and park on Pershing Road, on the side of her house, and several more officers rushed to the alley. The officers then came out of the alley with the man and carried him to the van or squadrol. The unknown man shouted, "Ah, Ah!" and, "I can't breathe!" the whole time like a "maniac" who was screaming to "wake up the entire neighborhood." One of the officers told the man, "Shut the fuck up." Once the man was placed in the van, he continued to shout. Civilian 3 was unable to

<sup>21</sup> IPRA contacted Civilian 4 of XXXX W. Pershing Road. Civilian 4 said that she was at home on July 20, 2015, at about 1:50 A.M., when she heard a man shouting "No" repeatedly. She did not provide any additional relevant information. (Attachment 8)

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provide a description of the man the police carried to the van or squadrol because there was a tree blocking her view. Civilian 3 said that she observed the entire incident from her kitchen window, which was approximately 20 feet away from the officers and the man who was placed in custody. (Attachment 45)

On September 4, 2015, IPRA interviewed Subject 1, the 911 caller from the night of July 20, 2015. The interview was conducted in an IPRA vehicle parked in front of XXXX W. 39th Place. Subject 1 said that on the night of the incident, he was walking home from work and approaching his house at XXXX W. 39th Place. He observed a male Hispanic, now known as Subject 2, banging on his front door. Subject 2 was acting strangely, crouching down by the door and saying, "Lady, call the police," in Spanish, even though no one else was present. As Subject 1 approached, Subject 2 spoke to Subject 1 and said, "Bitch. Fuck you up. Bitches," or, "What are you looking at? Bitch, fuck you up." Subject 2 then jumped off the porch and ran down the building's gangway toward the alley and out of sight. Subject 1 was concerned about his safety and called 911. Within ten minutes, police arrived, and Subject 1 told the officers about his encounter with Subject 2. While speaking with the officers, Subject 1 could hear someone screaming in the distance, and he pointed out the noise to the officers. The officers drove away to look for Subject 2. Subject 1 said that about 15 minutes after the police drove away, he received a phone call from police and he stepped back outside to speak with them again. The officers told Subject 1 that they found Subject 2, who had broken into a garage, and that Subject 2 had overdosed. The officers told Subject 1 that more people would be coming to speak with him, and he was later interviewed by detectives.<sup>22</sup> (Attachments 86 and 132)

**F. Chicago Police Department Detective Case Supplementary Report**

A Case Supplementary Report documented interviews with the following four individuals<sup>23</sup> in connection with this investigation. A summary of these interviews follows. (Attachment 168)

**1. Interview of Civilian 5**

Detective 1 identified Civilian 5 as a potential witness after speaking with Officer K, who first encountered Civilian 5 at the scene of the incident. Officer K told detectives that Civilian 5 described Subject 2's clothing and said that Subject 2 was her neighbor. Civilian 5 said that Subject 2 lived in an apartment at XXXX W. 39th Place. Civilian 5 further said that she had seen Subject

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<sup>22</sup> Subject 1 was interviewed by Detective 2 at Subject 1's residence on the night of the incident. He was also interviewed at CPD's Area Central Detective Division offices by Cook County Assistant State's Attorney 1. The detective's Case Supplementary Report recounts that Subject 1 gave detectives and Assistant State's Attorney 1 statements that were consistent with the information above. (Attachment 168)

<sup>23</sup> The Detective Case Supplementary Report also documents interviews with police personnel and with additional civilian witnesses. These other interviews are referenced elsewhere in this summary report.

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2 earlier in the day, that Subject 2 had appeared to be drunk, and that Subject 2 had a dog with him.

When interviewed by Detective 1 on July 20, 2015, at XXXX W. 39th Place, Civilian 5 said that she and her sister-in-law, Civilian 6, were standing outside on the night of the incident because they heard noises. They saw several police cars on Pershing Road. Civilian 5 walked closer to Pershing Road and saw a man later identified as Subject 2 lying in the alley. Subject 2 was not moving at first, but then he started screaming and moving around on the ground. Subject 2 then tried to hide under a police car as several Officers tried to stop him. The officers picked Subject 2 up from the ground and carried him to a van; Subject 2 was still screaming and moving around as the officers carried him. As the officers carried Subject 2, his red shorts were falling down around his legs. Civilian 5 said that she had seen Subject 2 in the neighborhood earlier that evening, and he was wearing the same clothing. After the officers placed Subject 2 into the van, Civilian 5 went home.<sup>24</sup>

## 2. Interview of Civilian 6

Detective 3 interviewed Civilian 6 on July 20, 2015, at XXXX W. 39th Place. Civilian 6 told detectives that the man later identified as Subject 2 moved in next door to her a few months ago. Civilian 6 saw Subject 2 earlier in the evening on July 19, 2015, and he was wearing a white tank top and red shorts. Subject 2 was walking with a dog that Civilian 6 had seen before, and Subject 2 asked Civilian 6 if she had seen his “lady.” Civilian 6 first thought that Subject 2 was referring to his dog, but then realized that he was referring to his girlfriend, who Civilian 6 had seen removing clothing from the building earlier in the day. Shortly after inquiring about his girlfriend, Subject 2 got into his red “Jeep” and sped away. Civilian 6 went to sleep around midnight, and she heard a commotion outside shortly after. Civilian 6 heard a male voice screaming, and the screams were coming closer to her building. She went out to her front porch, where she heard banging noises and more screaming. The police arrived in the area and Civilian 6 saw the police car stop at the corner of XXXXXX Avenue and XX Place. The officers spoke to a man on the street, and the man was pointing north. The police drove toward Pershing Road, and Civilian 6 continued to hear screams.

More police cars arrived on Pershing Road across from the school in front of Civilian 6’s building, and Civilian 6 decided to walk through the schoolyard to see what was happening. She saw a man lying on the ground in the alley along Pershing Road, and she saw several Officers standing around the man. Civilian 6 believed the man was Subject 2 because she recognized his white tank top and red shorts. Subject 2 was screaming and moving his body around on the ground, and Civilian 6 saw him “scooching” underneath a parked police vehicle in the alley. A group of officers picked Subject 2 up and carried him to a police van on Pershing Road. The officers put Subject 2 in the van, and Civilian 6 could still hear him shouting. Civilian 6 approached an officer and told him that she believed the man in custody was her neighbor. She told the officer that

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<sup>24</sup> IPRA obtained a copy of an Electronic Recorded Interview of Civilian 5 conducted by Assistant State’s Attorney 2 and Detective 2 on July 25, 2015, at CPD’s Area Central Detective Division. The interview was translated from English to Spanish by Detective 4. Civilian 5 recounted the same events that she described to Detective 1. (Attachment 214)

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Subject 2 was acting crazy earlier in the evening. After speaking with the officer, Civilian 6 started to walk back home; she then noticed that an ambulance had arrived.<sup>25</sup>

**3. Interview of Civilian 7**

The detective's Case Supplementary Report also indicates that Officer K spoke with another neighbor, Civilian 7, when Civilian 5 directed him to XXXX W. 39th Place. Officer K told detectives that Civilian 7 told him that Subject 2 was her neighbor, and that she saw Subject 2's girlfriend moving out of their apartment earlier in the day. Civilian 7 also told Officer K that she saw Subject 2 later that evening, and that he was drunk and acting crazy.

Detective 1 attempted to contact Civilian 7 at her apartment, but she was not home. He then called her by telephone and spoke with her about the incident. The detective's report indicates that a neighbor came to Civilian 7's door between 1:00 and 1:15 a.m. on the night of the incident; the neighbor told Civilian 7 that Subject 2, who lived on the second floor of their building, was running in the street, yelling and screaming. The neighbor told Civilian 7 that the police now had Subject 2 in the alley, and Civilian 7 went to the alley to see for herself. Civilian 7 said that she heard a man screaming. Civilian 7 spoke with police at the scene, but did not know Subject 2's name. She ran back home to find Subject 2's name, and she then learned from a neighbor that Subject 2 may have left his truck at a gas station. Civilian 7 spoke with police again, and told the officers that Subject 2's car was at the XXXXX<sup>26</sup> gas station at XXXX S. Kedzie.

**4. Interview of Civilian 8**

The detective's Case Supplementary Report indicates that detectives learned that Civilian 8 had been arrested on July 20, 2015, at XXXX S. Albany Avenue, and that he told the arresting officers that he was with Subject 2 on July 19, 2015. The arresting officers transported Civilian 8 to Area Central, where he was interviewed by Detective 5. The detective's report says that Civilian 8 told the detective that he was with Subject 2 on July 19, 2015, between 10:00 a.m. and 6:00 p.m., and they drove around in Subject 2's XXX Volkswagen, drinking and smoking cannabis together. Subject 2 told Civilian 8 that he had been up for three days because he was arguing with his girlfriend. Civilian 8 suspected that Subject 2 was also using cocaine, and he described Subject 2 as being paranoid lately. Shortly after Civilian 8 and Subject 2 parted ways, Subject 2 called Civilian 8 by telephone and told Civilian 8 that there was someone inside his apartment. Subject 2 asked Civilian 8 to come to the apartment at XX Place near XXXXXX, and Civilian 8 ran over to the apartment. Subject 2 pointed to his couch and told Civilian 8 that the couch had been moved. Civilian 8, however, noted that the couch was in the same place where he had seen it during previous visits. When Civilian 8 told Subject 2 that the couch had not moved, Subject 2 moved the

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<sup>25</sup> IPRA obtained a copy of the Electronic Recorded Interview of Civilian 6 conducted by Assistant State's Attorney 3 and Detective 5 on July 21, 2015, at CPD's Area Central Detective Division. Civilian 6 recounted the same events that she described to Detective 3 earlier. (Attachment 215)

<sup>26</sup> The XXXXX gas station is also referred to as the "XXXXXXX" gas station by other witnesses. Prominent signage at the station uses "XXXXXXX" branding. See Evidence Technician photographs, Attachment 74.

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couch approximately five inches and told Civilian 8 that it was now in the correct location. Civilian 8 helped Subject 2 search the apartment, but they did not find anyone.<sup>27</sup>

**G. Witness Officer Interviews**

IPRA conducted fifteen (15) witness officer interviews. Summaries of these interviews follow.

**1. Interview of Witness Officer B**

In a statement to IPRA on October 5, 2015, Officer B said that on the night of the incident, he was working with his partner, Officer A, on Beat XXXX. They responded to an assault in progress at 39th Place and Albany. Although they were not the assigned officers, they arrived before the assigned officers, Beat XXXX, POs Officer D and Officer C. When they arrived, Officer B spoke to the 911 caller, Subject 1. Subject 1 said that as he walked toward his house, he observed a man, later identified as Subject 2, on his front porch, banging on his front door, screaming, and hanging off the porch. Subject 1 said that he was scared, so he called 911. Subject 2 jumped off the porch and ran east toward a school; Subject 1 recognized Subject 2 from the neighborhood and knew that Subject 2 would occasionally hide in the bushes by the school, where he would jump out at people. Subject 1 provided the officers with a description of Subject 2's clothing: a white tank top and red shorts. The officers drove around neighborhood, and in the east alley of Albany, north of 39th Street, they heard screaming coming from a garage. When they looked in the garage to see who was screaming, they saw Subject 2. Subject 2's clothing was disheveled and matched the description given by Subject 1. Subject 2 was moving items around and tearing up the garage. As the officers exited their vehicle, Subject 2 ran out of the garage with his hands up. The officers ordered Subject 2 to the ground, and Officer B handcuffed him. Subject 2 sat on the alley pavement while Officer B and Officer C, who had now arrived, went to contact the homeowner.

As Officer B was talking to the homeowner, Civilian 2, he heard Officer A radio for a van. Officers Officer B and Officer C went back to the alley and saw that Subject 2 had moved from the front of Beat XXXX's vehicle to the rear of the vehicle, and he was flopping around and kicking. Officer B grabbed one of Subject 2's legs to try and get him under control and to prevent him from hurting himself. Beat XXX, Third Watch, manned by POs Officer F, Officer G, and Officer E, arrived and assisted in restraining Subject 2. Officer F retrieved zip-ties from the trunk of their vehicle. After Subject 2 was restrained, he rolled underneath Beat XXXX's vehicle, and officers pulled him out. After Subject 2 was pulled from beneath the police vehicle, officers carried him to the van. Officer B carried Subject 2 by his feet, and other officers "had other parts." The van was parked on Pershing Road, facing eastbound. Once Subject 2 was placed into the van, Lieutenant A, who was now on scene, told the officers to call for an ambulance because it was not

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<sup>27</sup> IPRA obtained a copy of an Electronic Recorded Interview of Civilian 8 conducted by Detective 6 and Assistant State's Attorney 1 on July 21, 2015, at Area Central. Civilian 8 confirmed that he had been interviewed earlier, and he told Detective 6 and Assistant State's Attorney 1 about the same events he had earlier related to Detective 5. Civilian 8 also told Detective 6 and Assistant State's Attorney 1 that the brand of beer he and Subject 2 had been consuming was Bud Light. This was consistent with open and closed cans of beer photographed in Subject 2's car by a CPD evidence technician on July 20, 2015, at the gas station at XXXX S. Kedzie Avenue. (Attachments 74 and 216). CPD Contact Cards indicates that POs Officer E and Officer G also encountered Civilian 8 on the 3800 block of South Albany Avenue at 12:16 a.m. on July 20, 2015, while investigating juveniles who accompanied Civilian 8 for potential curfew violations. (Attachments 123, 124, 125, 126)

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going to be possible to securely transport Subject 2 in the van. Officer B explained, “[H]e was never secured in, like, with a seatbelt, or anything. We were trying to figure out exactly how we, ‘cuz he was so aggressive, and we’re trying to figure out the best method to try to get him to the hospital. . . . We felt that they would be able to, at least, strap him down and securely transport him to a hospital as we didn’t feel that was gonna be able in the van.” IPRA investigators showed Officer B the in-car camera video recording and he identified himself, Officer A, Officer D, Officer C<sup>28</sup>, and Subject 2.<sup>29</sup> (Attachment 115)

## 2. Interview of Witness Officer C

In a statement to IPRA on September 25, 2015, Officer C said that on the night of the incident he was working Beat XXXX. Officer C and his partner, Officer D, received a radio call of an assault in progress at 39th Place and Albany. While traveling to their assignment, Beat XXXX gave them a disregard and Beat XXXX coded out of the job. While in the vicinity of Pershing Road and Albany, they pulled behind Beat XXXX’s vehicle, which was parked in the alley of XXXX S. Albany. Officer C exited his squad car and observed a man, later identified as Subject 2, handcuffed on the ground. Officer A was standing next to Subject 2. Officer C observed Subject 2 rocking his body up and down while lying on the ground, and he saw Officer B in an open garage. A vehicle in the garage appeared to have been tampered with, and it appeared that the garage had been burglarized. While knocking on the windows and doors of the residence at XXXX S. Albany to locate the owner of the garage, Officer C heard Officer D over the radio asking for additional units, shackles, and a van to respond.

Officer C made contact with the homeowner and escorted him out into the alley where Subject 2 was lying on the ground. The homeowner, later identified as Civilian 2, said that he did not know Subject 2 and did not give Subject 2 permission to be inside of the garage. Officer C told IPRA that he had no physical contact with Subject 2, and he did not participate in arresting, restraining, or carrying Subject 2 to the van. He also did not see which officers carried Subject 2 to the van because he was busy talking to the homeowner. Officer C said that he heard an officer call for an ambulance, but he did not know which officer it was. Officer C also recalled that Subject 2 was shouting throughout the incident, and specifically recalled that Subject 2 was “screaming out for his mom.”<sup>30</sup>

Officer C viewed the in-car camera video footage and identified himself, along with POs Officer A, Officer D, Officer M, Officer N,<sup>31</sup> and Officer B; Lieutenant A; Civilian 2; and one

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<sup>28</sup> Officer C’s last name is phonetically rendered as “XXXX” in the transcript of Officer B’s statement.

<sup>29</sup> According to the detective’s Case Supplementary Report, Detective 5 interviewed Officer B at the scene of the incident. Officer B’s account of the incident to the detective was substantially the same as his statement to IPRA. During this interview Officer B recalled that Subject 2 was sweating profusely and had blood on his face when he exited the garage and approached the officers. Officer B also recalled that when he handcuffed Subject 2, Subject 2 was shouting at the officers and explaining that he broke into the garage to hide from gangbangers. Officer B told the detective that he held Subject 2 by the wrist while waiting for other officers to respond with flex-cuffs. (Attachment 168, pp. 5-6)

<sup>30</sup> Officer C Tr. 40:13-23. (Attachment 122)

<sup>31</sup> Officer N’s last name is phonetically rendered as “XXXXXXXX” in the transcript of Officer C’s statement.

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unknown third watch officer, now known as Officer E, leaning against the back of a police SUV. (Attachment 122)<sup>32</sup>

**3. Interview of Witness Officer Y**

In a statement to IPRA on September 18, 2015, Officer Y said that on the night of the incident he was working with his partner, Officer J, on Beat XXXX as the “wagon” (transport van). They responded to a call for assistance with transporting an arrestee; upon their arrival, they observed two police vehicles parked in the alley behind XXXX S. Albany. Officer Y observed a male subject, later identified as Subject 2, lying face down, handcuffed, with his arms behind his back and zip ties around his feet. Subject 2 was lying still, “staring up into space.” Subject 2 then began screaming and flailing his body – he shifted around on the pavement, sliding underneath the parked police vehicle. Lieutenant A told the officers to put Subject 2 in the van. POs Officer Y and Officer Z ran back to the van, opened the prisoner-compartment doors, and put the stairs down to make it easier for other officers to load Subject 2 into the compartment; they then stepped aside and waited while other officers carried Subject 2 into the van. Officer Y could not remember which specific officers were involved in carrying Subject 2. Officer Y heard Lieutenant A give an instruction to call for an ambulance because there was no way to restrain Subject 2 inside the van. Subject 2 was shouting when he was first placed into the van, and Officer Y could hear Subject 2 “possibly hitting his heels . . . flailing around inside the wagon . . .” But after a few minutes, Subject 2 quieted down. Officer Y thought that Subject 2 had gone into a calm state again, and he was just being still. Then the paramedics arrived, and when the paramedics said that Subject 2 was dead, Officer Y could not believe it because minutes before, Subject 2 was screaming and kicking. Officer Y also viewed the in-car video recording and identified himself and Officer C.<sup>33</sup> (Attachment 101)

**4. Interview of Witness Officer Z**

In a statement to IPRA on September 18, 2015, Officer Z said that on the night of the incident, he and his partner, Officer Y responded to XXXX S. Albany. Upon their arrival in the alley, Officer Z observed a man, later identified as Subject 2, lying on the ground; Subject 2 was handcuffed and his legs were zip-tied. Officer Z saw Subject 2 roll over while hitting his head on the ground. Then Subject 2 rolled underneath a parked squad car. Officers picked Subject 2 up and carried him to the transport van, placing him inside. Officer Z did not know which specific officers carried Subject 2, and Officer Z said that he had already stepped aside when Subject 2 was being placed in the van. Officer Z heard banging from inside of the van, and he believed that Subject 2 was moving around. Officer Z heard an officer request an ambulance. The ambulance arrived and Officer Z learned that Subject 2 was dead inside the van. Officer Z also viewed the in-car video

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<sup>32</sup> According to the detective’s Case Supplementary Report, Detective 5 interviewed Officer C at the scene of the incident. Officer C’s account of the incident to the detective was substantially the same as his statement to IPRA. During this interview, Officer C recalled that Subject 2 had blood on his face when he first saw him in the alley. (Attachment 168, pp. 7-8)

<sup>33</sup> According to the detective’s Case Supplementary Report, Detective 5 interviewed Officer I at the scene of the incident. Officer I’s account of the incident to the detective was substantially the same as his statement to IPRA. (Attachment 168)

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recording and identified himself, Sergeant A, Lieutenant A, and POs Officer Y, Officer M, and Officer L.<sup>34</sup> (Attachment 105)

**5. Interview of Witness Officer L**

In a statement to IPRA on October 15, 2015, Officer L said he was working with his partner, Officer O, on the night of the incident. They responded to call for assistance and upon arriving at the scene, Officer L saw a man later identified as Subject 2 lying on the ground, screaming in Spanish and kicking. Officer L assisted other officers carrying Subject 2 to a transport van, where he was placed inside. Subject 2 continued to squirm, kick, and scream as he was being carried to the van. Officer L stepped outside of the van and waited next to the van. Officer L heard screaming and banging from inside the van. Someone called an ambulance; upon its arrival, the paramedics checked Subject 2 for a pulse but found none. The paramedics said that Subject 2 was dead. Officer L also viewed the in-car video recording and identified himself and Officer D. (Attachment 133)

**6. Interview of Witness Officer O**

In a statement to IPRA on October 29, 2015, Officer O said that on the night of the incident she and her partner, Officer L, responded to a call of a burglary. It seemed to her and her partner, listening over the air, that the officers on scene were struggling with the offender, so they went to help. Upon her arrival at XXXX S. Albany, Officer O saw a man later identified as Subject 2 lying on the ground between two squad cars; his hands were handcuffed behind his back and his feet were restrained. Subject 2 was forcefully moving his body. Officer O said that once she saw that there were a number of officers on the scene, she left the area and went back to her vehicle, which was parked on Pershing Road. An ambulance arrived and Officer O walked over to where the prisoner transport van was parked and stood outside. Officer O heard the paramedics say that were not going to take Subject 2 to the hospital because he was dead. (Attachment 146)

**7. Interview of Witness Officer M**

In a statement to IPRA on November 3, 2015, Officer M said that on the night of the incident, he and his partner, Officer N, responded to a radio call of a disturbance at 39th and Albany. When they arrived, Officer M saw a man later identified as Subject 2 lying on his back; his hands were handcuffed and his feet were restrained. At first, Subject 2 was lying calmly on the ground. Subject 2 then began screaming, and he crawled underneath the squad car that was parked in front of him. Officers pulled Subject 2 from beneath the squad car and carried him to a transport van. Officer M could not remember which officers carried Subject 2. An ambulance was called and the paramedics checked Subject 2's vitals. The paramedics said that Subject 2 was not breathing. (Attachment 151)

**8. Interview of Witness Officer N**

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<sup>34</sup> According to the detective's Case Supplementary Report, Detective 2 interviewed Officer J at the Area Central Detective Division. Officer J's account of the incident to the detective was substantially the same as his statement to IPRA. (Attachment 168, pp. 12-13)

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In a statement to IPRA on December 3, 2015, Officer N said that on the night of the incident, he and his partner, Officer M, responded to a call for assistance at Albany and Pershing Road. They exited their vehicle and walked towards the alley east of Albany, where Officer N saw a man, later identified as Subject 2, lying on the ground between two squad cars. Subject 2 was yelling and screaming in Spanish. Subject 2 flopped around on the ground and then scooted under the rear bumper of a squad car. He continued yelling, and several officers pulled him out from under the squad car. The officers picked Subject 2 up and carried him to a van, placing him inside. Officer N said that he was standing to the rear of the passenger side of the van, and the outer doors of the van were closed. While at the rear of the van, Officer N heard screaming and yelling coming from within the van. Officer N recalled that an ambulance arrived, but then he received an assignment from the dispatcher for a person shot several blocks away. He acknowledged the new assignment and left the scene. (Attachment 160)

**9. Interview of Witness Officer P**

In a statement to IPRA on November 10, 2015, Officer P said that on the night of the incident, she and her partner, Officer Q, responded to a radio call for officers needing assistance at Albany and Pershing Road. When they arrived, Officer P saw several officers in the alley east of Albany, and a man later identified as Subject 2 lying on the ground between two squad cars. Subject 2 was handcuffed behind his back and his legs were tied. Subject 2 remained still on the ground for a moment, but then he became irate and out of control, flopping up and down. Subject 2 was hitting his legs and his head against the concrete. Lieutenant A arrived and asked for a van. The van arrived and POs Officer B and Officer L picked Subject 2 up by his shoulders and feet and carried him to the van. Once Subject 2 was inside the van, Officer P heard Lieutenant A ask for an ambulance. Officer P was standing in front of the van and she heard Subject 2 yelling from inside the van. The ambulance then arrived, and the paramedics worked on Subject 2 before announcing that he was dead. Sergeant A, Beat XXXX, ordered Officer P to stay and to protect the crime scene. Officer P said that when she looked in the back of the van, she saw Subject 2 lying face down with his head toward the back of the van's door; his feet were facing toward the front of the van. Officer P believed that Lieutenant A called for an ambulance because Subject 2 needed medical attention because he was irate and out of control. (Attachment 152)

**10. Interview of Witness Officer Q**

In a statement to IPRA on November 13, 2015, Officer Q said that on the night of the incident, she and her partner, Officer P, responded to a radio call for additional cars needed at XXXX West Pershing Road. She observed a man later identified as Subject 2 lying on the ground handcuffed, between two squad cars, yelling and acting "crazy." As Officer Q saw how Subject 2 was acting, she repositioned herself to the other side of the police vehicle because she did not want to get bitten or spat on. Subject 2 then crawled underneath one of the parked squad cars, banging his head. Officers pulled Subject 2 from beneath the car and carried him to a van that was parked nearby. Officer Q did not know which officers carried Subject 2. Officer Q then drove Officer B, whose patrol car was blocked in, to 39th Place and Albany, where he spoke to the original 911

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caller and told the caller what Subject 2 had done. Officer Q heard the original caller, now known to be Subject 1, say that he came home from work and saw Subject 2 on his porch. Subject 1 said that he was scared, so he kept walking and called police. Officer Q drove Officer B back to the scene and dropped him off. Sergeant A then instructed her to assist with crime scene security. She saw an ambulance arrive, but did not see what the paramedics did because she was busy blocking traffic. (Attachment 153)

**11. Interview of Witness Officer R**

In a statement to IPRA on November 13, 2015, Officer R said that she and her partner, Officer V, heard a radio call for shackles to be brought to Albany and Pershing Road for a suspect who was under arrest. Officer R was already driving to the 9th District station for an unrelated matter, but she then radioed the dispatcher and said that she would go to the station to get the shackles. Then Officer R heard someone say to disregard the shackles, so she and her partner continued to the 9th District station where they remained for a while. Hours later, they drove by the crime scene at Albany and Pershing Road. Officer R and her partner were called to a gas station, at 41st Street and Kedzie, to relieve the police unit that was guarding Subject 2's vehicle. Officer R could not recall who she relieved, but said that they were assigned to wait until an evidence technician processed the vehicle.<sup>35</sup> (Attachment 150)

**12. Interview of Witness Officer S**

In a statement to IPRA on November 27, 2015, Officer S said that on the night of the incident he was working with his partner, Officer T. They were assigned to Beat XXXX, a squadrol vehicle. When they arrived at the intersection of Pershing Road and Albany, several other police vehicles were already there. Officer S observed a man, later identified as Subject 2, lying on the ground, handcuffed. Subject 2 was speaking loudly in Spanish. Officer S, whose regular beat encompassed that area, walked up to Subject 2 to see if he recognized him; Officer S walked away once he determined that he did not know Subject 2. As Officer S walked away, Subject 2 became loud, thrashed about, and scooted underneath a parked squad car. Some officers whose identities Officer S could not recall pulled Subject 2 from beneath the squad car and carried him to a van that was parked on Pershing Road, but Officer S did not actually see the officers place Subject 2 in the van. Officer S said that he and his partner had parked behind the van where Subject 2 was placed. Officer S stood by his squadrol and heard Subject 2 yelling and screaming from inside the other van. An ambulance arrived and Officer S was surprised when the paramedics said that Subject 2 was dead. Officer S said that he believed the prisoner-compartment doors to the van where Subject 2 died were open at all times. (Attachment 159)

**13. Interview of Witness Officer T**

In a statement to IPRA on December 18, 2015, Officer T said that on the night of the incident he was working with his partner, Officer S, assigned to Beat XXXX. Officer T substantially reiterated what his partner had told IPRA about their response to the scene. Officer T said that Lieutenant A called for an ambulance to safely transport Subject 2 to the hospital for a mental evaluation. After Subject 2 was placed in the transport van, the inner doors to the prisoner

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<sup>35</sup> Officer V was interviewed by IPRA on December 28, 2015, and related the same facts. (Attachment 174)

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compartment were closed, while the outer doors remained open. Officer T could hear Subject 2 shouting and flailing around inside the van. When paramedics arrived, officers whose identities Officer T could not recall opened the inner doors to the van. The paramedics entered the van, checked Subject 2's pulse, and connected a heart monitor to his chest. There was no indication of a pulse, and the paramedics said that Subject 2 was dead. Officer T said that he observed these events from a position between 6 and 8 feet away, at the rear of the transport van. Officer T recalled that "there was a brief discussion at the scene. I think, should . . . they take him, or we call an ambulance? I think we should call an ambulance because this is about, how can we guarantee his safety in the back, what happens?" Officer T also recalled that "[i]t was decided with the lieutenant that the ambulance would be called to transport because we could not monitor Subject 2 in the back of that van. We, being Officers, are the drivers of the vehicle enroute to the hospital. And given his erratic behavior, the ambulance was called to transport him. . . . It appeared to me the officers were taking the trouble to make sure that he would not suffer from positional asphyxiation. So, why risk that in the back of a van travelling to the hospital how many minutes away, where you would not be able to monitor or control him in the back of that vehicle?" (Attachment 170)

**14. Interview of Witness Officer U**

In a statement to IPRA on June 6, 2016, Officer U said that on the night of the incident, he was working with his partner, Officer K, assigned to Beat XXXX. Officer U that he and his partner responded to XXXX S. Albany to assist the officers who needed help there. When Officer U arrived, he observed a man later identified as Subject 2 lying on the ground in an alley; his hands were cuffed behind his back, and he was positioned between two squad cars, thrashing about. Officer U remembered that Officer B and Lieutenant A, along with other unidentified officers, were trying to keep Subject 2 from hurting himself. Subject 2 was thrashing about, but suddenly he would calm down and then start up again. Officer U observed officers carry Subject 2 to a waiting van. Once Subject 2 was in the van, the officers tried to put a seat belt on him, but he threw himself to the floor. Subject 2 continued to scream and thrash about. An ambulance arrived and Officer U learned that Subject 2 was dead inside the van. A witness from the neighborhood, who Officer U knew from previous encounters as Civilian 7, told him that Subject 2's car was parked at the gas station at XX and Kedzie. POs Officer U and Officer K went to the gas station, located the car, ran a check on the license plate number, and obtained a photograph of Subject 2 via the IClear system to verify his identity. Officer U also noticed that there was vomit on the ground next to Subject 2's car.<sup>36</sup> (Attachment 208)

**15. Interview of Witness Officer K**

In a statement to IPRA on June 10, 2016, Officer K said that on the night of the incident, he and his partner, Officer U, responded to an assist call at XXXX S. Albany. When they arrived, Officer K saw a man later identified as Subject 2 lying on the ground in an alley between two squad cars; his hands were handcuffed behind his back and his legs were zip-tied. Officer A was kneeling on top of Subject 2 and was holding him down, trying to prevent him from flailing his

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<sup>36</sup> According to the detective's Case Supplementary Report, Detective 1 interviewed Officer U at the Area Central Detective Division on July 20, 2015. Officer U's account of the incident to the detective was substantially the same as his statement to IPRA. (Attachment 168, p. 14)

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legs and banging his head against the pavement. Officer K saw that Officer A had Subject 2 under control, so Officer K walked past them and went into an open garage. He saw that the garage was in disarray and appeared to have been ransacked. Officer K left the garage and went back to where Subject 2 was lying. Subject 2 began banging his head against the ground, and Officer K and other officers tried to stop him several times. Subject 2 stopped moving momentarily: he flipped over from his stomach onto his back, breathing heavily and catching his breath. Officer K thought that Subject 2 finally wore himself out.

As Officer K stood over Subject 2, Subject 2 rolled back onto his stomach and wiggled underneath a parked squad car as the engine was running. Officer K believed that the vehicle had been running the entire time it was there, and the exhaust pipe from the vehicle was “red hot.” Officer K heard Subject 2’s skin sizzling when Subject 2’s body touched the exhaust pipe. Officer K ran to the vehicle and turned the ignition off. Officer K tried to pull Subject 2 from beneath the vehicle, but he could not do it himself. Officer K called for help, and he and his partner, along with other officers, pulled Subject 2 from beneath the vehicle. Subject 2 continued to bang his head on the ground. Officer K leaned Subject 2 against his shin in an effort to prevent Subject 2 from banging his head. Subject 2 was spitting, and he was bloody and covered in sweat. Subject 2 was flailing his arms and kicking, even though he was handcuffed and his legs were zip-tied. Officer K recalled that “it was obvious to most of us that he was under the influence of something; . . . we thought it was like PCP or Bath Salts.”

Officer K described Subject 2’s behavior: “I guess the best way you can say it, it looked like he was possessed by the devil, if you can – yeah, that’s the description that I could give. He was screaming all kinds of obscenities, things that made no sense; screaming for God one second, screaming for the devil the other, screaming for his mother; flopping around liked a fish out of water on the ground. It was obvious to everybody at the scene that he had to have been on some kind of drug, because no normal human being could act like that. The strength that he uh, possessed, was – any other man in any normal circumstances would have been exhausted by that. ‘Cause the – the amount of uh, resistance that he – he was giving towards the officers, even though he was handcuffed, zip-tied and everything, . . . he continued to resist and fight at every moment that he could. The only time that he stopped was to catch his breath for that one short moment. I – I mean, to crawl underneath a squad car, press your stomach against the hot exhaust of a Ford, Explorer, and still be able to lift the car up, zip-tied and handcuffed, I mean, that’s not normal.”

The prisoner transport van showed up and officers put Subject 2 in the van. Officer K recalled Lieutenant A say, “We’re not moving this thing until . . . we secure him.” Officer K said that Officer L initially strapped Subject 2 down on the van’s bench, but Subject 2 wiggled and managed to slip out of the restraints. Lieutenant A said, “All right, we’re not going anywhere. Get an ambulance over here so we can strap him down to the gurney.” Officer K recalled that Lieutenant A specifically referred to a recent incident in Baltimore<sup>37</sup> when a prisoner who was transported in a van had died, possibly because the prisoner was not properly secured. The lieutenant said, “I don’t want to have another Baltimore on my hands.”

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<sup>37</sup> Highly publicized protests in Baltimore, Maryland, took place in April of 2015 related to the death of Freddie Gray. Gray was reported to have died after suffering a severe spinal cord injury while being transported in a Baltimore Police Department van. See *Thousands Attend Funeral for Freddie Gray in Baltimore, CHI. TRIB.* (Apr. 27, 2015), <http://www.chicagotribune.com/news/nationworld/chi-freddie-gray-funeral-20150427-story.html>.

The doors to the van's prisoner compartment were open at first, but Subject 2 tried to wiggle out of the van, so someone closed the inner door, leaving the outer doors open. Subject 2 was alone in the van, but Officer K could hear him making noise until he became quiet, shortly before the ambulance arrived. Officer K could not, however, estimate how long Subject 2 was quiet. When the paramedics arrived, Officer K opened the inner door. Subject 2 was lying on his stomach on the floor of the van, with his head facing the rear doors. The paramedics flipped Subject 2 to his side to check his pulse, and eventually flipped him all the way over onto his back. After checking Subject 2's vital signs, the first paramedic told his partner that Subject 2 was dead. Lieutenant A heard what the paramedic said, and replied, "What the fuck you mean he's dead?" Lieutenant A asked the paramedic to check Subject 2 again, and the paramedic said, "He's fucking dead."

Civilian 5 approached Officer K and said that she believed the person in custody was her neighbor; she had seen him earlier in the day driving around with a dog in his car. She directed Officer K to XXXX W. 39th Place, where Subject 2 lived. A neighbor, Civilian 7, told Officer K that Subject 2 had been drinking all weekend and he had been fighting with his girlfriend. Civilian 7 said that Subject 2 drove a red Volkswagen and had a pit bull with him in the car. Civilian 5 told Officer K that Subject 2's car was parked at the gas station at 40th and Kedzie. Officer K and his partner drove to the gas station, where they saw the vehicle and ran the license plate. The registration came back to Subject 2. They waited with the vehicle until an evidence technician arrived, and the technician took photographs of the vehicle and collected some vomit from the ground.<sup>38</sup> (Attachment 210).

#### **H. Chicago Fire Department Report and Paramedic Interviews**

The Chicago Fire Department ("CFD") Ambulance Report documented that Ambulance XX was dispatched on July 20, 2015, to XXXX S. Albany at approximately 01:28:04 and arrived at 01:33:11. Paramedics were "at patient" at 01:34, and vital signs were taken at 01:35. The patient was not breathing and had no pulse. At 01:38:12, an electrocardiogram was administered, showing that the patient was in asystole. The narrative portion of the report states, "PT [patient] was found in the right side of a paddy van (CPD 972R) hand-cuffed laying [sic] on his left side unresponsive, no pulse. PT was placed on monitor where he was in asystole and it was confirmed in 3 different leads. CPD Lieutenant A Star #XXX declared the scene a crime scene. A detailed physical survey of his body could not be done due to fact he was a crime scene, but he did have abrasions to right shoulder and right arm." (Attachment 22)

In a Statement to IPRA on July 27, 2015, CFD Paramedic Commander 1 said that he and his partner, CFD Paramedic 1, arrived at XXXX S. Albany on the night of the incident in Ambulance XX. Officers directed them to a transport van. The officers told them that the person in the van was a robbery suspect, and that "he might be on bath salts by his actions. He was very

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<sup>38</sup> According to the detective's Case Supplementary Report, Detective 3 interviewed Officer K at the Area Central Detective Division on July 20, 2015. Officer K's account of the incident to the detective was substantially the same as his statement to IPRA. Officer K told the detective that Lieutenant A called the officers out of the prisoner transport van while they were waiting for the ambulance. (Attachment 168, pp. 13-14)

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aggressive, throwing himself around. It took multiple people to get him down, and handcuffed.” The officers told the paramedics that the ambulance was summoned to assess the prisoner “to see if he was all right to be transported.” When the paramedics entered the van, the patient was lying on the floor, unresponsive. Commander 1 then noticed that the patient wasn’t breathing; he checked the patient’s pulse and found none. Commander 1 then told Paramedic 1 to get the monitor. They placed the leads from the monitor onto Subject 2 and confirmed that he was in asystole. They told the CPD supervisor, Lieutenant A, that the prisoner was dead, and Lieutenant A declared the van a crime scene.<sup>39</sup> (Attachments 56 & 57)

**I. Evidence Technician Photographs**

Photographs from July 20, 2015, depict the scene at XXXX S. Albany and the interior and exterior of transport van. A total of 205 photographs were produced. What appears to be blood is shown on the floor of the prisoner compartment of the van and on the van’s inner door. The photographs also show Subject 2’s body on the floor of the van: Subject 2 is handcuffed and his ankles are zip-tied. His clothing and physical condition is consistent with the descriptions provided by the witness officers. The detached garage behind XXXX S. Albany is also shown in disarray, with property scattered about and damage to the garage’s pedestrian entry door. A Chevy Malibu is parked inside the garage; what appears to be blood is shown on the interior and exterior of the Malibu, and drops of apparent blood are also shown on the ground outside the garage and on the garage door. Photographs were also taken of the front porch at 911 caller Subject 1’s residence, XXXX W. 39th Place. Photographs were also taken of Subject 2’s red Volkswagen XXXXXX parked at the On the Go gas station at XXXX S. Kedzie Ave. The gas station photographs depict a pair of athletic shoes in the rear of the XXXXXX, along with closed and open cans of Bud Light beer. What appears to be vomit is shown on the pavement outside the vehicle. Ten photographs from Subject 2’s autopsy, conducted on July 21, 2015, were also produced. (Attachment 74)

**J. The Medical Examiner’s Report and Interview**

IPRA Investigator Investigator 3, #XXX, attended the postmortem examination of Subject 2, which was conducted on July 21, 2015, at the Cook County Medical Examiner’s Office. During the examination, Doctor A noted that Subject 2’s head was hypermobile. The doctor pointed to a spot at approximately the midpoint of the neck and said that the neck was broken at that location. (Attachment 6)

The Medical Examiner’s Report written by Doctor A documents the postmortem examination of Subject 2. The report indicates that Subject 2 died of combined cocaine and ethanol toxicity, and that physical stress associated with restraint was deemed a significant contributing factor. The use of cocaine and alcohol predisposed Subject 2 to lethal cardiac dysrhythmia, and there was also evidence that Subject 2 was intensely exerting himself while being apprehended and that this activity was most likely associated with elevated serum catecholamines. Doctor A concluded that while the factors listed above would support a manner-of-death finding of

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<sup>39</sup> In a statement to IPRA on July 27, 2015, CFD Paramedic 1 provided essentially the same information as Commander 1. (Attachment 61) Additionally, according to the detective’s Case Supplementary Report, both Commander 1 and Paramedic 1 were interviewed by detectives on the night of the incident while still at the scene. Commander 1 was interviewed by Detective 5, and Paramedic 1 was interviewed by Detective 2. Both Commander 1 and Paramedic 1 gave detectives substantially the same account of the incident that they later provided to IPRA. (Attachment 168, pp. 3-4).

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Accidental, the actions of the arresting officers prior to and following the available video recording may also have resulted in physical stress on Subject 2's body, despite the fact that there were no lethal injuries or evidence of asphyxia. Further, many of the injuries noted would be compatible with a struggle on a paved surface, and it is unknown if Fahr's mineral vascularization or a "Stroke" contributed to Subject 2's death. For these reasons, the medical examiner concluded that the Manner of Death was Undetermined. (Attachment 92)

On November 30, 2016, Doctor A was interviewed by IPRA regarding her previous assertion that Subject 2 had a broken neck. Doctor A clarified her statement about whether Subject 2's neck was broken as she previously had suspected. In Doctor A's follow-up interview, she said that her initial finding was pending the outcome of x-rays of the neck area. According to Doctor A's final, official autopsy report, radiology consultation showed no evidence that Subject 2's neck was broken.<sup>40</sup> Doctor A explained that when the neck is loose it is hypermobile with palpable laxity upon manual rotation. Doctor A said that she requested further testing because there were signs of palpable laxity and she wanted to know why the neck was loose. According to radiology consultation, there was no evidence of atlanto-occipital disassociation [internal decapitation] and no acute or subacute osseous injuries [bone injuries in the neck] were identified grossly or by radiography. Posterior and anterior neck dissection was unremarkable, with no injury to larynx or anterior neck soft tissues. These findings led Doctor A to revise her opinion regarding Subject 2's neck. (Attachment 224)

**K. Doctor B's Report**

On April 18, 2016, Doctor B, an Independent Forensic Pathologist and Illinois Coroners' Physician, reviewed the Cook County Medical Examiner's Autopsy Report with all of its attachments. The request to review the Cook County Medical Examiner's Autopsy Report was made on behalf of the Cook County State's Attorney, Anita Alvarez, to determine the cause of death. After reviewing Doctor A's autopsy report, it was Doctor B's independent opinion that the cause of death was best certified as cocaine intoxication. The manner of his death was best certified as "accident." In Doctor B's opinion, the postmortem examination and investigation materials were very thorough and provided the necessary information to accurately determine the cause and manner of death. Subject 2's restraint by the police and post-restraint activities were recorded on video. The autopsy examination report and photographs clearly determined that the external injuries Subject 2 sustained were superficial and related to his own actions, and he sustained no significant internal injury related to the restraint. The bruises, scratches, and scrapes were well documented during the autopsy and consistent with his actions recorded on the police dashboard camera. His behavior and internal organ changes were due to the acute and chronic effects of cocaine intoxication. The toxicology testing results of his blood clearly showed a lethal concentration of cocaine and its metabolite benzoylecgonine. His sudden death and collapse in the back of the stationary police transport van occurred after the restraint activity concluded. The mechanism or physiological process of his death was a cocaine-related cardiac arrhythmia.

Doctor B's report continued that there was no evidence in the materials that the restraint actions of the police caused or contributed to Subject 2's death. There was no evidence that the restraint activities by the police caused traumatic blunt injuries, fractures, or compressional or

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<sup>40</sup> Report of Postmortem Examination 8. (Attachment 92)

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positional asphyxia. Neither the t-shirt nor skin of Subject 2's left upper back showed a patterned impression mark or contusion where an officer appeared to place his foot and weight on the left upper back/shoulder area. There was no internal contusion of the muscles or fracture of the underlying ribs in the area. There was no evidence of any neck hemorrhage, fracture, or skin injury. The scattered petechia only in his left eye did not indicate compressional asphyxia of the chest or neck. Subject 2 was noted by the paramedics to be lying on his left side in the transportation van, which is the likely cause of the left petechia.

Doctor B concluded that the absence of any evidence of deep anterior or posterior neck muscle, ligament, or spinal cord hemorrhage or injury excludes a broken neck or blunt neck injury from a fall or collapse while in the van. Non-specific laxity in the neck was noted during the external examination of Subject 2's body. This notation was without any other associated external skin injury, internal neck muscle or soft tissue hemorrhage, laryngeal mucosal petechia, fracture, dislocation, or spinal cord injury. Doctor B emphasized that the video shows that after the officer removed his foot from Subject 2's left upper back / shoulder, Subject 2 could be seen breathing and was then subsequently behaving with the same amount of agitated and delirious activity seen minutes earlier. Doctor B noted that the officer was standing with his weight on one foot on Subject 2's left upper back / shoulder for 1 minute and 31 seconds; even if the officer's foot somehow compressed Subject 2's chest enough to impair respiration, one-and-a-half minutes is not long enough to deprive the brain of oxygen and cause fatal compressional asphyxia. It would require three to five minutes of cerebral ischemia from chest compression to cause irreversible, fatal brain injury. If a person suffers a compressional asphyxia event that leads to irreversible brain injury, the person will not recover to their previous level of activity as quickly as Subject 2 demonstrated. Doctor B concluded that the atypical method of foot restraint shown by the officer could not have physiologically caused or contributed to Subject 2's death in light of the subsequent videotaped activity following the restraint. (Attachment 219)

## L. Accused Officer Interviews

All six accused officers were interviewed by IPRA. Summaries of these interviews follow.

### 1. Interviews of Accused Officer A

In a statement to IPRA on September 1, 2015, Officer A said that on the night of the incident he was working with his partner, Officer B, on Beat XXXX. Officer A was the passenger and Officer B was the driver. Another unit was assigned to respond to a disturbance at XXXX W. 39th Place, and POs Officer A and Officer B decided to assist. They got to the call before the assigned unit, and they spoke to the original 911 caller, later identified as Subject 1. Subject 1 told them that a man had been banging on his front door, screaming and yelling. Subject 1 told the officers that the man called him a "bitch ass nigger" and threw all of his children's toys off his front porch. Subject 1 kept walking, and the man jumped off the porch and ran away towards a nearby school. Subject 1 told the officers that the man was wearing red shorts and a white shirt, and the officers began looking for the man, circling the school.

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When the officers drove near Albany and Pershing, they heard noises coming from a garage located behind XXXX S. Albany. As they approached the garage, they saw that it was open, and they heard screaming. A man later identified as Subject 2 walked out of the garage, directly toward the officers. Officer B ordered Subject 2 to the ground, and Officer A came around the patrol vehicle from the passenger side. Subject 2 complied with the order the officers handcuffed him. Officer D and Officer C arrived on the scene. Officer C and Officer B looked through the garage and went to look for the homeowner. Officer A stayed with Subject 2, who was sitting on the pavement in the alley, to the right of the patrol vehicle. Subject 2 initially sat still, but then began hitting the back and side of his head against the side of the squad car. Officer A said that Subject 2 “was very erratic. Very he was flailin’ his body. He was sweating profusely. His shorts were severely ripped. Severely ripped. His, he was bleeding from his mouth. Uh he was very dirty,” and “[h]e was swearing um the word I’m think of, I, I really didn’t understand a lot of what he was swearing. He was just uh screamin’.” “He said somethin’ about hiding from gang bangers. And he said somethin’ about his girlfriend, he caught his girlfriend cheating on him.”

Officer A said that he called for a van so that Subject 2 could be placed in a secure vehicle. Officer A explained that his squad car didn’t have a prisoner cage, and that even a car with a cage would not be adequate to secure Subject 2. Soon, Lieutenant A arrived on scene, and the lieutenant decided to take Subject 2 to a hospital for a mental health evaluation.

Officer A explained the actions that he took in response to Subject 2’s behavior: “At first I just told ‘em to relax. Just, just sit there, relax. He started getting’ crazier. He started bangin’ his head against the police car. He started flailin’ his legs. And he would turn to his side. At that point I tried to use my body uh the side of my body just to hold’em next to the car. Just to secure ‘em so he wouldn’t do that and hurt himself.” Officer A later clarified, “I tried to secure . . . his body with the side of my body and my hands.” Officer A said that Subject 2 “scooted himself to the back of our car. That’s when I had to get on the ground to carry his shoulder and hand. After he calmed down, we turned ‘em over . . . on his back.” “He was layin’ there for a lil bit, 20, 30, 40 seconds with his eyes closed, sits up, slams his head back on the ground and then that’s when he went underneath the car.” Officer A explained that other officers then pulled Subject 2 from underneath the car and carried him to the transport van, which Officer A and others realized had arrived.

When the prisoner transport van arrived, Officer A said that he helped other officers place Subject 2 into the van. Officer A could not remember which other officers were involved in placing Subject 2 in the van, but he recalled that Subject 2 was placed on his left side. Subject 2 was flailing his body as he was being carried to the van, moving his legs and his upper body back and forth. This behavior continued after Subject 2 was placed in the van, and Subject 2 was still bleeding from his mouth and sweating profusely. Paramedics were then called to the scene because “[w]hen he was flailin’ his body we heard ‘em flailin’ his body, we knew we couldn’t secure him properly and transport him properly. For his safety we called for an ambulance one to check on his condition and to safely secure him and transport ‘em to a hospital.”

Officer A viewed the in-car camera video recording from Beat XXXX and identified himself, Officer B, Officer C, Officer D, Officer F,<sup>41</sup> Officer Y, and Lieutenant A. (Attachment 107)

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<sup>41</sup> Police Officer F’s last name is phonetically rendered as “XXXXX” in the transcript of Officer A’s statement.

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On June 2, 2016, in a follow-up interview with IPRA, Officer A was presented with the allegation that he failed to intervene and to ensure the safety of Subject 2 when he observed Officer E use improper and excessive force towards Subject 2 when Officer E used his foot to restrain Subject 2. Officer A answered this allegation, saying, "I was concentrating on holding – I was carrying the – Subject 2's shoulders and arm on the ground. . . I was on my knees between me and the car. I was securing his shoulder area and his hand area trying to just stop him from moving because he was moving around, uh, banging his head, banding his body off the pavement." When an IPRA investigator asked about his observation of Officer E's actions, Officer A replied:

A I observed a [sic] officer.

Q What did you observe the officer do?

A Um, from the allegation put his foot on his head.

Q Okay. Did you see them do that?

A Um, not right away. But I noticed it was there.

Q You noticed it was there.

A Yes.

Q Okay. So if you noticed it was there the allegation is that you failed to intervene. How do you respond to that?

A At the time I was just concentrating on what I was doing I wasn't thinking about what other officers were doing or to tell another officer what he was doing right or wrong. I was really just focused on what I was doing.

Q So but you did observe Officer E, later, place his foot on his head.

A Yes. I did observe it.

Q Okay. And then you didn't do anything about it at that time?

A Uh, no. I did not.

Officer A was then asked about the second allegation: he failed to immediately request medical attention for Subject 2, who displayed signs of medical distress or serious illness. Officer A replied, "Just at that time I just – he was – when he was moving around being very erratic I thought it was more of just a mental and I didn't think, um, he needed medical attention right at that time." Officer A was then confronted with his previous statement from September 1, 2015, where he described Subject 2 as bleeding from his mouth, flailing his body, and swearing, and he was asked why he did not believe that these observations indicated the need to call for medical

assistance. Officer A replied, “At that . . . point . . . I was dealing with him moving around and stuff. So I didn’t think about it. You know my main concern was stopping him from moving and stopping him from banging his head off our – the side of our car and then stopping him from moving around the car then. So I was more concentrating on that. I wasn’t thinking about getting an ambulance there. That didn’t come to mind.” Officer A acknowledged that Lieutenant A later decided to call for an ambulance; this decision was made because an ambulance was needed to safely transport Subject 2 for a mental evaluation, not because of the need for immediate medical evaluation or treatment. Officer A further explained his response to the second allegation: “It wasn’t apparent at the time that he needed physical – or that he needed medical attention from the way he was acting. Once we put him in the van we knew we couldn’t secure him. So that’s when we called for the ambulance.”<sup>42</sup> (Attachment 207)

## 2. Interviews of Accused Officer D

In a statement to IPRA on September 4, 2015, Officer D said that on the night of the incident he was working with his partner, Officer C, on Beat XXXX. Officer D said that he arrived at the alley behind XXXX S. Albany, and he observed Beat XXXX, POs Officer A and Officer B, with someone in handcuffs. The handcuffed man, later identified as Subject 2, was sitting on the ground with his back against the squad car. Officer D said that Subject 2 was agitated; his breathing was labored and he was sweating profusely. POs Officer A and Officer B explained to the Beat XXXX officers that they had found Subject 2 yelling and tearing apart a garage. They believed that a garage burglary had occurred, so POs Officer B and Officer C went to locate the homeowner. After POs Officer B and Officer C walked away, POs Officer D and Officer A remained in the alley with Subject 2. Subject 2 then began thrashing about, dragging himself on the ground, going back and forth.

Officer D called for a van to transport Subject 2, and he asked if the transport officers could bring shackles. Officer D said that because Subject 2 was so combative, he decided shackles would be appropriate to prevent any officers from getting injured. While at the rear of the squad car, Subject 2 kicked at the officers while they tried to restrain him. When asked how he tried to restrain Subject 2, Officer D replied, “Well we tried to hold his feet down and at one point I remember tryin’ to hold his head down. And he was, he was just . . . not very easy to control.” Officer D further explained how he held Subject 2’s head down: “Well I tried to . . . hold his head down with my foot. And that didn’t work. So we tried to hold his . . . feet down to keep ‘em from kicking,” and, “I was tryin’ to restrain . . . his head because I remember if you keep control of his head and you control the body.”

Officer D said that he was unable to restrain Subject 2 by the head, so he used his own hands or feet to hold down Subject 2’s feet. Officer A was also attempting to restrain Subject 2, along with other officers who arrived later. Officer D could not recall which other officers were involved, but he remembered that someone brought zip ties, which were used to restrain Subject 2’s legs. After Subject 2 was restrained, he rolled underneath the parked squad car and had to be

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<sup>42</sup> According to the Case Supplementary Report, on July 20, 2015, Detective 5 interviewed Officer A at the scene of the incident. Officer A’s account of the incident to the detective was substantially the same as his later statements to IPRA. (Attachment 168, pp. 6-7)

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pulled out. Officer D said that he did not assist in pulling Subject 2 from beneath the car. After Subject 2 was pulled from underneath the car, Officer D and other officers carried him to the van. After Subject 2 was placed in the van, he was still yelling unintelligibly and sweating profusely. After some discussion, the officers on scene decided to call for an ambulance, and Lieutenant A instructed them to do so. Subject 2 was lying on his left side on the floor of the van while waiting for the ambulance. At some point, someone closed the doors to the van's prisoner compartment, and Subject 2 was left alone. Officer D could not recall who closed the doors.

Officer D viewed the in-car camera video footage from Beat XXXX, and he identified himself, Officer A, Officer B, Officer C, Officer M, Officer N, Officer Y, and Lieutenant A. (Attachment 121)

On May 6, 2016, in a follow-up interview, IPRA presented Officer D with allegations that he used improper and excessive force toward Subject 2 when he used his foot to restrain Subject 2. It was also alleged that Officer D was in violation of Rule 5, "Failure to Perform Any Duty," when he failed to request medical assistance for Subject 2, who was in physical distress. When asked why he thought the best way to control Subject 2 was by putting his foot on Subject 2's head, Officer D replied, "Well, I remember I was trained at the Academy that if you control the head, you control the body." When asked if his trainers taught him to use his foot, Officer D replied, "No, not necessarily my foot. . . . It was what was available at the time." When asked how he responded to the allegation that he used his foot to restrain Subject 2, Officer D replied, "Well, I tried to keep him from getting up and trying to assist Officer A in some way or form of restraining him."

When asked why he did not call for medical assistance after observing Subject 2's behavior, Officer D replied, "It's not the first time I came across an offender or a suspect who was acting erratic or sweating. . . . So I didn't think he was in any type of duress of medical assistance at that time."<sup>43</sup> Officer D explained that an ambulance was called to transport Subject 2 to the hospital for a mental evaluation. Officer D said that he believed Subject 2 was drunk, and that "he had some scrapes on him from dragging himself around, but it wasn't anything serious. It was just minor scrapes." Officer D further explained that he did not observe any injuries on Subject 2's body other than the minor scrapes, and he never saw that Subject 2 was bleeding. Officer D watched in the in-car camera video footage from Beat XXXX and acknowledged that he pointed his flashlight down at Subject 2 and looked at him while he was on the ground.<sup>44</sup> (Attachment 193)

### **3. Interviews of Accused Officer F**

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<sup>43</sup> *Id.* at 36:19-24.

<sup>44</sup> According to the Case Supplementary Report, on July 20, 2015, Detective 5 interviewed Officer D at the scene of the incident. Officer D's account of the incident to the detective was substantially the same as his later statements to IPRA. The detective summarized Officer D's statements about why an ambulance was called: "Officer D helped carry Subject 2 to a waiting police van. Subject 2 was going to be transported to the hospital for treatment because Subject 2 seemed intoxicated or mentally ill and his face was bleeding. Subject 2 physically refused to be seated in the van and continued shouting at the officers. Subject 2 continued banging his body against the floor of the van at which time the officers realized they were not able to safely transport Subject 2 in the van. An ambulance was ordered and the officers remained at the rear of the van with the door open and Subject 2 still inside. The ambulance arrived and Officer D learned Subject 2 was dead." (Attachment 168, pp. 8-9)

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In a statement to IPRA on October 21, 2015, Officer F said that on the night of the incident he was working with his partners, Officer E and Officer G. While patrolling in the area of 40th and Kedzie, a motorist stopped them and informed them that someone in a red car was driving erratically. The officers saw a car matching the description given by the motorist parked at a nearby gas station. They ran the license plate to make sure the car wasn't stolen or wanted, and they looked for any contraband or guns. The driver of the red car had apparently left the area; the car's windows were down and there was a dog inside. As the officers looked into the car, the dog jumped out through the open window and ran off. The car was not wanted and had not been reported stolen, and the officers did not find any guns or contraband. The officers left the gas station and continued patrolling.

The officers then heard a radio call for help at 38th and Albany and they went to assist. When they arrived at the assist call, Officer F observed a man, later identified as Subject 2, lying on the ground in the alley behind XXXX S. Albany. Subject 2 was handcuffed, and the officers already on scene were calling for a van with shackles. Officer F was in a sergeant's car that night, and he remembered that the sergeant's car had zip-ties in the back. Officer F retrieved the zip-ties, and he and Officer G zip-tied Subject 2's legs. Officer F assisted other officers in holding Subject 2 down while waiting for the van to come, and he thought that someone called for an ambulance. Because Subject 2's legs were zip-tied, Subject 2 took "little baby steps" to the van. Officer F could not recall if Subject 2 stepped into the van on his own or if he was carried. While Subject 2 was in the van, someone on the scene called for an ambulance again. A short time later, the ambulance arrived.

Officer F described Subject 2's appearance and behavior: "I mean, he was, maybe he was bleeding. I don't, I don't remember where he was bleeding from. But, he was really, really sweaty. You know, he looked like he was on multiple drugs. You know, I'm not saying that it was alcohol too but, he looked like he was intoxicated in different ways, you know?"

IPRA investigators showed Officer F the in-car camera video recording and printed out a still photograph dated July 20, 2015, and time-stamped at 12:11:11 a.m. In an attempt to verify the identities of the officers seen in the video footage, Officer F was shown a still frame of officers who were crouched down, with an officer leaning against the back of a marked police vehicle. Officer F circled himself crouched down with his back towards the video camera, circled Officer E leaning up against the back of the marked SUV, and circled Officer G standing to the left of the still frame. In addition, IPRA investigators showed Officer F evidence technician photographs of Subject 2's car, with license plate XXXXXX. Officer F identified these photographs as the car registered to Subject 2 that he had seen at the gas station on the night of the incident. (Attachment 136)

In a follow-up statement to IPRA on June 7, 2016, Officer F addressed the allegations against him. Officer F responded to the allegation that he failed to intervene and / or ensure Subject 2's safety when he observed Officer E use improper and excessive force toward Subject 2 when Officer E used his foot to restrain Subject 2: "I believe that Officer E wasn't using improper force. Uh, Subject 2 was crawling around on the ground trying to slither away or was trying to hurt himself underneath the squad car. And, uh, everyone was just trying to restrain him from hurting himself further . . . I didn't see any excessive force . . ."

Officer F was asked if he saw Officer E put his foot on Subject 2 at any time. He replied, “I’m not sure. It was kind of a struggle trying to hold him down, so I’m holding one leg, you know, and my other partner is grabbing the other leg. Everyone’s trying to hold him down, so it was kind of – everyone is doing their part just to hold him down. So, I didn’t really see him, you know.” Officer F was asked if he saw Officer E put his foot on Subject 2’s head, and he replied, “I – it wasn’t on his head. No, Ma’am.” When asked if he saw Officer E put his foot on any part of Subject 2, Officer F replied, “I’m not exactly sure, but he was just trying to hold him down. So I believe it was his right shoulder area where he was trying to hold him down.” Officer F explained that his perception of Officer E’s actions was not clear because “[t]here was a struggle. . . . I’m dealing with legs that are kicking, my other partner’s dealing with other legs that are kicking, so I’m not really sure.” Officer F also said, “I don’t believe it was excessive. It was, you know, a struggle. So, you know, when we’re in the Academy we were taught that we can use our hands, our legs, our feet . . . to hold people back, that kind of stuff. And it didn’t seem excessive at the time.”

Officer F also addressed the allegation that he failed to immediately request medical attention for Subject 2: “I believe that . . . I thought that someone did call for an ambulance. So I believed there was an ambulance on the way and the wagon.” Officer F explained, “There was a lot going on. There was a lot of people around us, you know. So it wasn’t just us three; there was other police around us. So it sounded like people were calling. People are – other people were doing stuff too . . .”<sup>45</sup> (Attachment 209)

#### **4. Interviews of Accused Officer G**

In a statement to IPRA on October 20, 2015, Officer G said that on the night of the incident he was working with POs Officer E and Officer F , and that they worked overtime on a post-shooting mission assigned to Beat XXX. Officer G provided substantially the same account as Officer F of checking a red car at a gas station. Shortly after, they heard numerous radio calls for officers needing assistance at XXXX S. Albany, and the officers calling for assistance needed shackles or zip ties. They responded to the call, and Officer G helped hold down the left leg of a struggling arrestee, later identified as Subject 2. As Officer G held Subject 2’s leg, Officer F went back to their squad car to retrieve zip ties. Officer F handed Officer G a zip tie, and he put the zip tie on Subject 2’s left leg. Once the zip-tie was in place, an unknown officer zip-tied Subject 2’s right leg to his left leg. After Subject 2’s legs were secured, he calmed down. A short time later, though, Subject 2 became agitated and pushed himself underneath a parked police vehicle. Other officers pulled Subject 2 from beneath the vehicle and carried him away; Officer G did not see where they brought him. Officer G and his partners left the scene shortly after Subject 2 was carried away.

Officer G viewed the in-car camera video recording and identified himself, Officer F, and Officer E. (Attachment 134)

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<sup>45</sup> According to the Case Supplementary Report, Detective 5 interviewed Officer F on July 20, 2015, at the Area Central Detective Division. Officer F recounted substantially the same events that he later told IPRA investigators. Officer F told the detective that officers picked Subject 2 up and carried him to the van. Officer F and his partners left the scene and returned to the station to end their tour of duty after Subject 2 was placed in the van. (Attachment 168, pp. 16-17)

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In a follow-up statement to IPRA on June 7, 2016, Officer G addressed the allegations against him. The first allegation was that Officer G failed to intervene or to insure the safety of Subject 2 when he observed Officer E use improper and excessive force when Officer E used his foot to restrain Subject 2. When Officer G was asked if he saw Officer E put his foot on Subject 2, he replied, "I don't recall him having his foot on there. We were busy doing, trying to get him under control of his feet at the time. . . . As I said before earlier in the statement, that when we arrived there, he was kicking his legs back and forth, acting very erratically. So, we were given zip ties and we were able to control, get control of his feet so that he would not hurt himself or officers."

Officer G also answered the allegation that he failed to request medical attention for Subject 2: "We got there and he was very erratic. He was yelling, he was screaming. There were more than one officer telling him to please relax, take it easy, relax, trying to calm the situation, more than one officer. He was on his stomach, lifting his legs, kicking his feet into the cement, which isn't good for him or for officers. So, you know, we were trying to restrain him and there were many calls on the air and there were some that started to get frantic that they needed help there. We arrived and we helped restrain his legs." Officer G said that he did not know if Subject 2 was suffering from any kind of mental illness, under the influence of drugs or alcohol, or if he was injured. Officer G said that while he did not call for an ambulance, he heard someone else call for an ambulance while he was on the scene; he could not remember who made the call.

When asked if he believed Subject 2 needed medical attention, Officer G said that "what I believe is at the time that you weren't going to be able to safely transport him in a wagon . . . I'm not a doctor. So, I mean there's sometimes where people you don't know, you don't know if they're acting erratically because they just don't want to get arrested. I'm not a doctor. So . . . when . . . he started . . . acting erratically and screaming, yelling again, I guess somebody thought that yes, an ambulance was necessary to secure him instead of putting him in the back of a wagon."<sup>46</sup> (Attachment 211)

## 5. Interviews of Accused Officer E

On April 14, 2016, Officer E was interviewed by IPRA and was presented with allegations that he used improper and excessive force towards Subject 2 when he used his foot to restrain Subject 2, and that he failed to complete and submit a Tactical Response Report ("TRR") to document his use of force. Officer E said that on the night of the incident he was working with Officers Officer G and Officer F on a post-shooting mission. While on patrol, they heard a radio call where other officers asked for assistance with a combative arrestee. When Officer E arrived at the alley behind XXXX S. Albany, he saw that two officers had an arrestee, later identified as Subject 2, in handcuffs, lying face-down on the ground between two squad cars. Subject 2 was extremely sweaty, and he was thrashing around, screaming and yelling. Describing his actions, Officer E said, "I got there and I had placed my right foot on the left shoulder blade of the arrestee

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<sup>46</sup> According to the Case Supplementary Report, on July 20, 2015, Detective 1 contacted Officer G by telephone and interviewed him about the incident. Officer G gave the detective substantially the same recounting of the incident that he later provided to IPRA. Officer G told the detective that he observed officers carry Subject 2 to a police van after Subject 2 was pulled from beneath the parked patrol vehicle. Officer G also told the detective that he returned to the 9<sup>th</sup> District Station to end his shift, and that he learned that Subject 2 was dead while at the station. (Attachment 168, p. 11)

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so hopefully put some pressure on his shoulders to – to control him from constantly lifting his chest off the ground and banging his face off the cement.” Officer E later explained, “You know, his face was bloody. And I thought that at the time that was the best way to hopefully control him from hurting himself any more than he already was.”

Officer E was presented with General Order 03-02-01, the Use of Force Model, and asked to explain where he would classify Subject 2 on the chart: cooperative subject, resistor, or assailant? Officer E said, “All right, so now, I would say he was an active resistor.” When asked what force he used, Officer E replied, “Okay, so I placed my right foot on his left shoulder blade.” Officer E said that he never placed his foot on Subject 2’s neck or head. Later in the interview, Officer E clarified that he had placed his foot across Subject 2’s shoulder blade: “So my toes were – would be pointing down across his back and not at his head or his feet. . . like long ways, not – not up and down. So my toes were not facing his head or his feet.” When asked if he ever stood on Subject 2 with one foot, Officer E replied, “Well, I had my one foot, my right foot, I was on him and then my left foot was dangling.”

Officer E said that no other officer directed him to place his foot on Subject 2, nor did any other officer ever tell him to remove his foot from Subject 2. None of the other officers ever told Officer E that they had Subject 2 under control. Answering the first allegation specifically regarding why he used his foot to restrain Subject 2, Officer E said, “That was the best way that I thought at the time I would be able to control him without injuring him in any way.”

Officer E said that he did not complete and submit a TRR because, “At the time I didn’t think anything I did warranted it. Once he was calm enough to be escorted to – to the wagon, our shift was over, then we left. I never gave it another thought, didn’t think anything I did warranted it.” Officer E also said, “And nothing I think I did, injured him in any way and that was it.”

Officer E also said that he remembered a lieutenant on scene requesting an ambulance. Officer E did not recall exactly when the lieutenant made this request, but it was after Officer E had stepped off Subject 2. Officer E said that the lieutenant was standing right behind him when his foot was on Subject 2, and that he believed the lieutenant “was seeing everything that was going on.”

Officer E said that he learned Subject 2 had died later, when he was at the station turning in his radio at the end of his watch.<sup>47</sup> (Attachment 187)

## 6. Interviews of Accused Lieutenant A

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<sup>47</sup> According to the Case Supplementary Report, on July 20, 2015, Detective 5 interviewed Officer E at the Area Central Detective Division. The detective summarized Officer E’s description of his use of force against Subject 2: “Officer E observed officers trying to hold Subject 2 to the ground and observed blood on Subject 2’s face. Subject 2 was struggling to move away from the officers’ grasp and screaming at the officers. Officer E placed his right foot on Subject 2’s left shoulder blade to prevent Subject 2 from moving away. Subject 2 was still able to lift his body off the ground as Officer E and the other officers were trying to hold him down on the ground. Officer E kept his right foot on Subject 2’s left shoulder blade and stepped up to apply more pressure by dangling his left foot off the ground.” (Attachment 168)

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In a statement to IPRA on August 11, 2015, Lieutenant A said that on the night of the incident he was working the first watch, as Beat XXX R. While on patrol, he monitored his radio and he heard an officer calling for assistance at XXXX S. Albany. The officer needed leg shackles to restrain an arrestee. When Lieutenant A arrived at XXXX S. Albany, he saw an arrestee, now known as Subject 2, on the ground in the alley between two squad cars. Subject 2 was handcuffed, struggling with officers and kicking his legs. Lieutenant A learned from POs Officer A and Officer D that Subject 2 was found in the garage at XXXX S. Albany, and that he had broken into a car parked in the garage. Additionally, the officers told Lieutenant A that Subject 2 was the same person that someone else had called about, acting crazy in the neighborhood.

Lieutenant A described the officers' actions: “[T]hey were havin’ a, a hard time struggling with him. Um but very professional. Um basically tryin’ to hold ‘em down. He was like just bucking himself upwards. Uh banging his head throughout the whole incident banging his head on the ground. Uh tryin’ to roll, tryin’ to turn. Kicking his legs, um their efforts were uh to control ‘em and prevent ‘em from injuring himself.”

When asked if Subject 2 was lucid, Lieutenant A answered, “Uh I don’t, by lucid he was conscious. His eyes kinda looked glazed. He looked like he was, he was high to me. Or intoxicated something. Did not, did not speak. I asked even what was wrong myself and he didn’t respond.” Lieutenant A said that he and the officers determined that Subject 2 was not going to be transported to the station because he was combative and acting “crazy,” and the van was called to transport Subject 2 for a mental health evaluation. After Subject 2 was placed in the van, Lieutenant A decided that it would be more appropriate to transport Subject 2 by ambulance. Lieutenant A announced this decision, and Officer D called for the ambulance.

Lieutenant A explained, “When we put ‘em in the wagon he was still thrashing about it and looked like he might’ve been having trouble breathing. I couldn’t really tell. Um and combination with being high or appeared to be high to me and uh he was still thrashing about and I was concerned about having him safely transported and, and in the wagon as well. So with all of those factors I said let’s call for an ambulance.” Lieutenant A further clarified the timing of the ambulance request: “I’d say right about when we placed ‘em in the van and I could get a good I don’t know a better look. You could see uh with the lighting I could see a lil bit better but he was still thrashing around. And then I realized we wouldn’t be able to secure ‘em properly either. And then I kinda noticed his breathing was labored a lil. So at that point I mean right after we put ‘em in the van maybe you know we were preparing to transport ‘em and I just decided it wasn’t a good idea. Let’s call for an ambulance.”

Lieutenant A said that once the paramedics arrived, he expected them to strap Subject 2 down and transport him for a mental health evaluation. The lieutenant also planned to have an officer ride in the ambulance with Subject 2 while another officer followed behind. But when the paramedics arrived, they examined Subject 2 and said that he had no vital signs. He was dead. Lieutenant A then declared the area of the van as a crime scene.

Lieutenant A watched the in-car camera video recording from Beat XXXX and identified himself, Sergeant A, and POs Officer A, Officer D, Officer B, Officer G, Officer L, and Officer M. Lieutenant A was not able to identify the officer, later identified by others as Officer E, who

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was leaning against the back of the SUV with his foot on Subject 2's upper back, shoulder, or neck. Lieutenant A noted the moment when he waved his hand back and forth at Subject 2, but Subject 2 did not respond. Because Subject 2 was just staring upward, Lieutenant A explained that he waved his hand to get Subject 2's attention and to see if he was listening. When Lieutenant A identified himself first walking into the camera's view, he said that he had just arrived on scene seconds earlier. After viewing the video recording, Lieutenant A also recalled when he first noticed that Subject 2's breathing was labored: "I noticed it when we were bringin' 'em to the van . . . I noticed that even when he was kind of on the ground a lil bit when I waved my hand at 'em. I don't know if I would say labored breathing just at that point he was like kinda had this glazed look at 'em. . . . I'd say the breathing I kinda noticed after we put 'em into the van or pretty much immediately after he was really thrashing about and throwin' himself underneath the car is when I first kinda noticed he was breathin' heavy." (Attachment 73)

On October 9, 2015, IPRA conducted a follow-up interview with Lieutenant A. The lieutenant watched the in-car camera video recording again, and he identified the same officers that he identified during his previous statement. During the follow-up interview, Lieutenant A circled the images of officers that he identified on still-frame prints from the video, and he labeled them by name. (Attachment 129)

On June 1, 2016, in a follow-up interview with Lieutenant A, IPRA presented the lieutenant with allegations. First, it was alleged that Lieutenant A failed to intervene and / or ensure the safety of Subject 2 when he observed a subordinate, Officer E, use improper and excessive force toward Subject 2 when Officer E used his foot to restrain Subject 2. Lieutenant A answered this allegation: "At no time, did I observe Officer E use excessive force, or any improper action to restrain Subject 2. As a matter of fact, throughout this whole incident, all the officers involved, specifically, were concerned with Subject 2's safety . . . and . . . performed their duties to insure his safety the whole time." Lieutenant A was asked if he recalled Officer E placing his foot on Subject 2. Lieutenant A answered: "I recall . . . Officer E, from you guys showing me the video, having his foot near Subject 2. I don't recall specifically, but I recall the whole scene, with this all video taped, with me staring at, and no one involved had their foot near him, or their knee near him, was doing it in any manner, whether it was a weight transfer, or pushing, or anything to harm him. Everything was done as an extension of trying to hold down and restrain Subject 2 from hurting himself."

Lieutenant A also explained the actions that he took immediately after arriving in the alley. "Well, all officers, we were all communicating, trying to . . . figure out what . . . we were gonna do next, and I remember speaking . . . to one officer, who I still don't know exactly who that is. But I said out loud to a couple of people, 'Let's just, you know, if he wants to – something to the effect of, if he wants to just sit up, as long as he's not banging his head anymore, or hurting himself, let's just step away from him, and . . . let him sit up . . . [W]e don't need to, you know, hold him down, unless he's hurting himself."

It was also alleged that Lieutenant A failed to immediately request medical attention for Subject 2, who displayed signs of medical distress / serious illness. In response to this allegation and after reviewing the in car-camera video recording, Lieutenant A responded, "I'm strongly denying that I improperly requested an ambulance. I think I requested it properly." Lieutenant A acknowledged that he did not request an ambulance when he first arrived in the alley, but he

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explained, "I didn't call for an ambulance, initially, because I needed time to assess, uh, his condition, and what was going on. Was he just crazy? You know, he had just committed a crime. Was he high on drugs? He had periods where he was thrashing about, like crazy, and then, for several minutes, was quiet and almost cooperative."

Lieutenant A further explained, "[H]e seemed fine in, in the middle of the whole scenario, or at some point in time, as well. So, it wasn't a clear cut. It was many factors to consider. It wasn't in need for an ambulance immediately. I needed time to assess the situation." Lieutenant A explained why he decided to call for an ambulance later, after Subject 2 had been carried to the prisoner transport van: "The time was when we were just . . . placing him into the wagon . . . and opening the door, starting to place him in the wagon. It was all at that time. That was one of the factors I considered in summoning an ambulance was, the inability to properly, uh, restrain him for a safe transport." Lieutenant A was questioned further about the timing of the ambulance request:

Q Okay. And, as the reports reflect, you did it after he was taken from the actual location, from . . . to vehicle trade off, into transport van, that's when you actually call for an ambulance?

A That'd be fair to say.

Q Okay. So, you did not do that, when you first . . . arrived, and you observe him for approximately four to five minutes that you were there, because you walk off the scene. You never determine that you should call for an ambulance at that point? Based on your previous statement, where you say, he had difficulty in breathing, and he was thrashing about, and the officers were holding him down, trying to prevent him from injuring himself?

A That's correct.<sup>48</sup> (Attachment 206)

#### M. Civil Lawsuit

On July 19, 2016, a civil lawsuit was filed against the City of Chicago and members of the CPD in the United States District Court for the Northern District of Illinois, Eastern Division, by Subject 3, on behalf of herself and as administrator of Subject 2's estate. The suit alleged that CPD officers exerted physical pressure on Subject 2's head, neck, shoulders, chest, and back when the officers detained Subject 2, and that these actions caused Subject 2 to suffer a loss of oxygen to his brain, causing his death. The suit specifically alleged federal-law claims that the defendant officers violated the Fourth Amendment by subjecting Subject 2 to excessive force, that defendant officers unreasonably failed to intervene when they observed excessive force being used against Subject 2, that defendant police supervisors condoned the use of excessive force and failed to

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<sup>48</sup> According to the Case Supplementary Report, on July 20, 2015, Detective 5 interviewed Lieutenant A while on the scene at XXXX S. Albany. The detective's summary of the interview indicates that Lieutenant A gave substantially the same account of the incident that he later provided to IPRA. (Attachment 168, pp. 4-5)

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intervene, and that defendant officers conspired to deprive Subject 2 of his constitutional rights. The suit also alleged a policy claim against the City of Chicago based on the City's alleged policy of encouraging and concealing police misconduct. The suit asserted wrongful death, Survival Act, and intentional infliction of emotion distress claims under Illinois law.

On November 4, 2016, the City of Chicago answered the complaint. The city disputed many of the factual allegations asserted by the plaintiff, denied all liability, and asserted various affirmative defenses.

On July 12, 2017, IRPA contacted the City of Chicago's Chief Assistant Corporation Counsel and learned that no depositions had yet been taken in this case.

On August 1, 2017, the plaintiff filed her first amended complaint. The amended complaint added several additional officers as individual defendants, but did not assert any additional claims. (Attachments 217, 228, 229)

Signatures For Factual Summary:

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Investigator 4  
Investigator

Approved:

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Investigator 5  
Supervising Investigator

## V. ANALYSIS

### A. Officer E, #XXXX

It is alleged that on July 20, 2015, at approximately 1:50 A.M., in the vicinity of XXXX W. Pershing Road, that **Officer E, #XXXX:**

#### 1. Used improper and excessive force toward Subject 2 when he used his foot to restrain Subject 2.

Rule 6 prohibits an officer from disobeying an order or directive, whether written or oral. The CPD's Use of Force Model, embodied in General Orders G03-02-01 and G03-02-02, requires that members escalate or de-escalate to the amount of force which is reasonably necessary to overcome a subject's resistance and to gain control, and to modify their level of force in relation to the amount of resistance offered by the subject.<sup>49</sup> The force options available to CPD members are dictated by the subject's actions, and subjects are placed into categories based on their actions. A subject "whose actions attempt to create distance between that person and the member's reach with the intent to avoid physical control and/or defeat the arrest" is classified as an "active resistor."<sup>50</sup> The force options available to use against an active resistor include holding techniques, pain compliance techniques, and stunning.<sup>51</sup> "[A] subject who is using or threatening the imminent use of force against himself/herself or another person" is classified as an "assailant."<sup>52</sup> The force options available to use against an assailant include all of the options that are available against an active resistor, along with direct mechanical techniques, which are defined as "hard, concentrating, striking movements such as punching or kicking, or powerful locks and pressures," which "can be combined with take-downs or pins against the ground or other objects."<sup>53</sup> General Order G03-02-02 requires that after gaining control of a subject, officers must "avoid sitting, kneeling, or standing on a subject's chest, which may result in chest compression, thereby reducing the subject's ability to breath."<sup>54</sup>

Subject 2's attempts to roll away from officers and flail his body to avoid being held down could reasonably be classified as active resistance. Subject 2's apparent attempts to injure himself by striking his body against the ground or against the patrol vehicle, along with his kicks directed towards officers, could reasonably be classified as assaultive. Under the use-of-force framework

<sup>49</sup> General Order G03-02-01, § II.C ("When force is applied, a member will escalate or de-escalate to the amount of force which is reasonably necessary to overcome the subject's resistance and to gain control. . . . Members are not required to start at the lowest levels of the Use of Force Model; they will select the appropriate level of force based on the subject's actions. . . . Members will modify their level of force in relation to the amount of resistance offered by the subject. . . . As the subject offers less resistance, the member will lower the amount or type of force used. . . . As the subject increases resistance, the member may increase the amount or type of force used."); General Order G03-02-02, § II.C ("Members will select the appropriate level of force option based on a subject's actions and modify their selection of options as the subject offers less or greater resistance.").

<sup>50</sup> General Order G03-02-02, § III.B.2.

<sup>51</sup> *Id.*

<sup>52</sup> *Id.* at § III.C.

<sup>53</sup> *Id.*

<sup>54</sup> General Order G03-02-02, § IV.A.

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discussed above, officers' responses to these actions could include holding techniques, powerful locks and pressures, and pins against the ground. An officer could use his or her feet, as well as his or her hands, to execute these techniques. But the officer's use of these techniques must still be reasonable under the circumstances, and must still be moderated based on the subject's actions.

Determinations regarding the potential use of excessive force in the course of an arrest, investigatory stop, or other seizure are properly analyzed under the Fourth Amendment's objective reasonableness standard. The question is whether the officer's actions are objectively reasonable in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. *Graham v. Connor*, 490 U.S. 386, 397 (1989); see *Estate of Phillips v. City of Milwaukee*, 123 F.3d 586, 592 (7th Cir. 2003). The following factors are instructive in making the determination of whether an officer's use of force is reasonable: (1) "the severity of the crime at issue;" (2) "whether the suspect poses an immediate threat to the safety of the officers or others;" and (3) "whether he is actively resisting arrest or attempting to evade arrest by flight." *Graham*, 490 U.S. at 396 (citing *Tennessee v. Garner*, 471 U.S. 1, 8-9 (1985)). The analysis of the reasonableness of an officer's actions must be grounded in the perspective of "a reasonable officer on the scene, rather than with the 20/20 vision of hindsight" and "allow for the fact that Officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation." *Plumhoff v. Rickard*, 134 S. Ct. 2012 (2014) (internal quotations and citation omitted). The analysis must take into account the totality of the circumstances confronting the officer, rather than just one or two factors. *Plumhoff*, 134 S. Ct. at 2020; see also *Scott v. Edinburg*, 346 F.3d 752, 756 (7th Cir. 2003).

At the time Officer E arrived at XXXX S. Albany, he did not know any information regarding Subject 2 except that fellow officers needed assistance with a "combative arrestee." In other words, Officer E had no information indicating that Subject 2 had committed a violent crime. Officer E observed Subject 2 *in handcuffs*, lying face-down on the ground between two squad cars, "thrashing about" surrounded by CPD officers who were holding Subject 2's torso, arms, and legs. Upon Officer E's arrival, Subject 2 posed only a minimal risk to anyone except himself, and while Subject 2 continued to struggle and to kick, there was no realistic possibility that he would defeat the arrest or escape. Under the totality of circumstances facing Officer E, a reasonable officer would only use the level of force necessary to gain control of Subject 2 and prevent him from hurting himself.

The exact type of force used by Officer E is somewhat under dispute. Officer A observed Officer E standing on Subject 2's head. Certainly, no reasonable officer could conclude that standing on a man's head for an extended period of time was an appropriate method to prevent the same man from injuring his own head or body. And no reasonable officer could conclude that standing on a man's head for an extended period of time was an appropriate method to control the man's movements, given that the man was already handcuffed, was in the process of having his legs zip-tied, and was being held down in more appropriate ways by multiple other officers – with even more officers standing by ready to provide further assistance. If Officer A's recollection is accurate, it is clear that Officer E used excessive force.

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Officer E, however, claims that he never stood on Subject 2's head. Instead, Officer E claims that he placed his foot on Subject 2's shoulder blade. "So my toes were – would be pointing down across his back and not at his head or his feet. . . like long ways, not – not up and down. So my toes were not facing his head or his feet."<sup>55</sup> Per Detective 5's summary of his interview with Officer E, Officer E also said that he "kept his right foot on Subject 2's left shoulder blade and stepped up to apply more pressure by dangling his left foot off the ground."<sup>56</sup> The in-car camera video recording does not clearly show where Officer E placed his foot, but it is apparent that his foot was somewhere on Subject 2's upper back, neck, or head. Given that Subject 2 continued to move while Officer E stood on him, and that Officer E adjusted his balance and his position several times, it is possible that Officer E's foot came in contact with any or all of these anatomical landmarks at various times.<sup>57</sup>

Even if Officer E's account is credited and Officer E reasonably believed that it was necessary to put his body weight on Subject 2 by placing his right foot across Subject 2's shoulders to keep Subject 2 from injuring himself, at some point during the three-plus minutes that Officer E stood on Subject 2, his use of force became unreasonable. Officer E said, "I got there and I had placed my right foot on the left shoulder blade of the arrestee so hopefully put some pressure on his shoulders to – to control him from constantly lifting his chest off the ground and banging his face off the cement."<sup>58</sup> Officer E later explained, "You know, his face was bloody. And I thought that at the time that was the best way to hopefully control him from hurting himself any more than he already was."<sup>59</sup> Officer E's belief that standing on Subject 2 was the best method of controlling was unreasonable and is rebutted by his own statement to IPRA where he noted that he lost his balance.<sup>60</sup>

As officers gained control of Subject 2, Officer E should have avoided standing on Subject 2's shoulders because, as stated in General Order G03-02-02, this could result in chest compression and reduce Subject 2's ability to breath.<sup>61</sup> And when Officer E, a one-hundred-and-eighty-five-pound man, stepped up to apply his *entire body* weight to Subject 2, his action was likely to result in death or great bodily harm to Subject 2 in exactly this manner. *Abdullahi v. City of Madison*, 423 F.3d 763 (7th Cir. 2005) (reversing the district court judge's summary judgment order and noting that [t]he reasonableness of kneeling on a prone individual's back during an arrest turns, at least in part, on how much force is applied. Kneeling with just enough force to prevent an individual from 'squirming' or escaping might be eminently reasonable, while dropping down on

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<sup>55</sup> Officer E Tr. 18:15-19:3. (Attachment 187)

<sup>56</sup> Case Supplementary Report 17. (Attachment 168)

<sup>57</sup> The total time that Officer E used his foot to restrain Subject 2 was approximately 3 minutes and 12 seconds.

<sup>58</sup> Officer E Tr. 7:20-24.

<sup>59</sup> *Id.* at 11:10-13.

<sup>60</sup> *Id.* at 18:10-19:10.

<sup>61</sup> If Officer E put his full weight on Subject 2 by placing his right foot across Subject 2's shoulders, he inevitably compressed Subject 2's chest. Subject 2's chest was compressed when it was pushed against the ground, putting Subject 2 at risk of asphyxiation.

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an individual or applying one's full weight (particularly if one is heavy) could actually cause death.”) It is clear from the in-car camera video recording and Officer E’s statements to IPRA and the detectives that he placed his full weight on Subject 2 when he lifted up his left leg and used the police vehicle to balance his right foot on Subject 2. By placing his entire weight on Subject 2 while Subject 2 was lying prone on the ground, Officer E used deadly force. Unlike in *Abdullah*, Officer E did not even kneel to the ground. The fact that the medical examiner and the independent forensic pathologist did not determine Officer E’s use of force to be the cause of death is beside the point: based on General Order G03-02-02’s warning, Officer E should have known that his actions could result in Subject 2’s death or at least cause him great bodily harm.

Furthermore, even if Officer E’s use of force is not categorized as deadly force, it was still unreasonable under the circumstances. The technique of standing on a subject’s shoulder, neck, or head is not taught to CPD officers. Officer E did not have to make a “split-second decision,” but rather he had ample opportunity to reassess his actions and find a safer alternative over the three minutes he placed his foot on Subject 2. Officer E could have bent or kneeled down to use his knee or his hands to control Subject 2, just as Officer A was demonstrating, and just as CPD officers are taught. Officer E would certainly have been justified in wanting to avoid Subject 2’s blood and in wanting to avoid the hot muffler of Beat XXXX’s squad car, but the video shows that there was room for Officer E to maneuver between Subject 2 and the front of Beat XXXX’s car.<sup>62</sup> Officer E could have occupied the space that was first occupied by Officer F and later occupied by Lieutenant A. Furthermore, Officer E and the other CPD officers could have carried Subject 2 away from the vehicle for their own safety and for his safety. Most importantly, Officer E did not lower the amount or type of force used as Subject 2 significantly lessened his resistance, as required by CPD General Order 03-02-01. The in-car-camera video recording shows Officer E standing on Subject 2 for approximately a minute after Subject 2 essentially stopped resisting, but Officer E did not release his foot until Lieutenant A ordered the CPD officers to let Subject 2 sit up. The only legitimate justification for Officer E’s use of force once Subject 2 was clearly in police custody was to prevent Subject 2 from hurting himself; a reasonable officer would not have used force that placed Subject 2 at greater risk of harm or injury.

Because a preponderance of evidence shows that Officer E used excessive force, he violated Rule 6, and the Reporting Investigator recommends a finding of **Sustained**.

**2. Failed to complete and submit a Tactical Response Report (TRR) to report/document the use of force he utilized toward Subject 2.**

Rule 6 prohibits an officer from disobeying an order or directive, whether written or oral. General Order G03-02-05 requires an officer to complete a TRR under any of the following circumstances:

- A cooperative subject or a passive resistor is injured or alleges injury resulting from the officer’s use of force
- Every incident involving an active resistor, except where the subject’s only action of resisting is fleeing and the officer’s actions did not extend beyond verbal commands and/or

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<sup>62</sup> Officer E also did not reference the hot muffler as reason for not kneeling in his statement to IPRA.

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control holds utilized in conjunction with handcuffing and searching techniques which do not result in injury or allegation of injury

- Every incident involving an assailant whose actions are aggressively offensive with or without weapons who is using or threatening the imminent use of force against the officer that will likely cause physical injury
- Every incident involving obstructing a Officer when the obstructing is a physical act directed at the officer
- Every incident where an officer uses strikes with an impact weapon, kicks, knee strikes, closed-hand strikes or punches, takedowns, emergency handcuffing, and other direct mechanical techniques

It is undisputed that Officer E did not complete a TRR in this incident. It is also undisputed that Officer E used his foot to restrain Subject 2. Before the end of Officer E's shift, he learned that Subject 2 was dead. Officer E told IPRA that he did not complete a TRR because, "At the time I didn't think anything I did warranted it. Once he was calm enough to be escorted to – to the wagon, our shift was over, then we left. I never gave it another thought, didn't think anything I did warranted it." Officer E also said, "And I didn't think I did, injured him in any way and that was it."<sup>63</sup>

Under the rubric presented above, Officer E would have been required to complete a TRR in any circumstance where Subject 2 was injured or alleged that he was injured as a result of Officer E's use of force. Because Subject 2 died that night, he could not make any allegations of injury. Officer E contends that he didn't think his use of force caused any injury to Subject 2, and the medical examiner's and independent forensic pathologist's reports do not establish that Officer E caused any injury to Subject 2.<sup>64</sup> But Officer E knew that he used a significant amount of force by standing on Subject 2, and he knew that Subject 2 died shortly after this use of force. A common-sense reading of General Order G03-02-05 does not require that an officer know, to a certainty, that their use of force caused injury before completing the TRR. Under circumstances where an officer used significant force against a subject, and the subject died almost immediately thereafter, a reasonable officer would complete a TRR under the assumption that their use of force could have contributed to the subject's death. In fact, both Officer A and Officer D completed TRRs and checked the box for "subject injured."

Also, even if ambivalence over causation excused Officer E from completing a TRR under the first two conditions listed above, Officer E would not be excused under either of last three conditions. If Subject 2 was an assailant whose actions were aggressively offensive and whose use of force against the officer would likely cause physical injury, Officer E would be required to complete a TRR to document *any* force that he used in response. But Officer E did not classify Subject 2 as an assailant – he classified Subject 2 as an active resistor. If Subject 2 was an active resistor (or any other subject classification), Officer E would be required to complete a TRR for

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<sup>63</sup> Officer E Tr. 14:9-10.

<sup>64</sup> As noted above, the Assistant Cook County Medical Examiner, Doctor A, concluded that physical stress associated with restraint by the police was a significant contributing factor in Subject 2's death; but Doctor A's report does not attribute any specific injury to any particular officer's actions. The independent forensic pathologist, Doctor B, concluded that the restraint method shown on the in-car camera video recording could not have caused or contributed to Subject 2's death.

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any use of force involving a takedown or “direct mechanical techniques.” Direct mechanical techniques are defined as “hard, concentrating, striking movements such as punching or kicking, or powerful locks and pressures.” The definition also states that “these techniques can be combined with take-downs or pins against the ground or other objects.” Officer E’s method of restraining Subject 2 could be classified as a “direct mechanical technique” because it involved a “powerful lock or pressure” when Officer E lifted one leg in order to concentrate his body weight on Subject 2. Officer E’s method of restraining Subject 2 by standing on him was either a “takedown” or a “direct mechanical technique” under General Order G03-02-05, and, either way, Officer E was required to document this use of force by completing a TRR.

Finally, Officer E would be required to complete a TRR if his use of force involved Subject 2 engaging in a physical act of obstruction directed at Officer E. After Officer E stood on Subject 2, Subject 2 continued to roll back and forth in an apparent attempt to free himself from Officer E’s control. This was a physical act of obstruction directed at Officer E, and it required Officer E to document his use of force by completing a TRR.

Because a preponderance of evidence shows that Officer E was required to complete a TRR and that he failed to do so, Officer E violated Rule 6, and the Reporting Investigator recommends a finding of **Sustained**.

**B. Officer A, # XXXX**

It is alleged that on July 20, 2015, at approximately 1:50 A.M., in the vicinity of XXXX S. Albany Avenue, that **Officer A, # XXXX**:

- 1. Failed to perform any duty, in violation of Rule 5, in that he failed to intervene and/or ensure the safety of Subject 2 when he observed Officer E use improper and excessive force toward Subject 2 when Officer E used his foot to restrain Subject 2.**

CPD members are required to take appropriate action, which may include verbal or physical intervention, or immediate notification to a supervisor, when they know that another member is using excessive force against a subject.<sup>65</sup> A CPD member violates Rule 5 of the Rules and Regulations of the Chicago Police Department when they fail to perform any duty; this includes failing to take appropriate action when the member knows that another member is using excessive force against a subject.

To sustain an allegation that a member violated Rule 5 by failing to intervene when the member knew that another member was using excessive force, it must be shown by a preponderance of the evidence that the accused member both (1) knew that another member was using excessive force, and (2) failed to intervene.

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<sup>65</sup> General Order G03-02: Use of Force Guidelines, §III.E (“All Department members are obligated to ensure compliance with all laws and Department regulations. If a member knows that another Department member is using excessive force against a subject, the member will take appropriate action. The action required by the member will depend upon the circumstances of the incident. However, appropriate actions may include, but are not limited to, verbal or physical intervention, immediate notification to a supervisor, or a direct order by a supervisor to cease the use of excessive force.”)

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The CPD's use of force model requires that members escalate or de-escalate to the amount of force which is reasonably necessary to overcome a subject's resistance and to gain control, and to modify their level of force in relation to the amount of resistance offered by the subject.<sup>66</sup> Subject 2's attempts to roll away from officers and flail his body to avoid being held down could reasonably be classified as active resistance. Furthermore, Subject 2's apparent attempts to injure himself by striking his body against the ground or against the patrol vehicle, along with his kicks directed towards officers, could reasonably be classified as assaultive. Under the use-of-force framework, officers' responses to these actions could include holding techniques, powerful locks and pressures, and pins against the ground. An officer could use his or her feet, as well as his or her hands, to execute these techniques. But the officer's use of these techniques must still be reasonable under the circumstances, and must still be moderated based on the subject's actions.

In this case, Officer A readily admitted that he saw Officer E's foot on Subject 2's head and that he did nothing in response.<sup>67</sup> Officer A told IPRA that he noticed Officer E's foot on Subject 2's head, and he responded to the allegation that he failed to intervene by saying, "At the time I was just concentrating on what I was doing I wasn't thinking about what other officers were doing or to tell them another what he was doing was right or wrong. I was really just focused on what I was doing."<sup>68</sup> But Officer A was obligated under General Order G03-02 to do something if he knew another officer was using excessive force – he didn't have the option of concentrating on only his own actions or leaving the other officer to his own devices. If Officer A knew that Officer E was using excessive force, he was obligated to take action.

Officer A did not explicitly admit that he knew the force Officer E used was excessive, but he has, as discussed above, admitted to seeing Officer E's foot on Subject 2's head. A preponderance of the evidence shows that Officer A must have known that this use of force was excessive. The in-car camera video recording shows that Officer A was bending over or kneeling at the side of Subject 2's body, with his hands on Subject 2's back or arms, during the entire time that Officer E used his foot to restrain Subject 2. This went on for over three minutes. Given that Subject 2 was already handcuffed and being held down by multiple officers, with even more officers arriving as time went on, there was no justifiable reason for any officer to be standing on Subject 2's head; this would have been apparent to Officer A from his vantage point immediately adjacent to Officer E's legs.

No reasonable officer could conclude that standing on a man's head for an extended period of time was an appropriate method to prevent the same man from injuring his own head or body. And no reasonable officer could conclude that standing on a man's head for an extended period of time was an appropriate method to control the man's movements, given that the man was already handcuffed, was in the process of having his legs zip-tied, and was being held down in more

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<sup>66</sup> General Order G03-02-01, § II.C.

<sup>67</sup> The relevant inquiry is whether Officer A perceived Officer E's foot to be on Subject 2's head and not whether Officer E's foot was actually on Subject 2's head.

<sup>68</sup> Officer A Tr. 10:24-11:22, June 2, 2016. (Attachment 207)

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appropriate ways by multiple other officers – with even more officers standing by ready to provide further assistance.

A preponderance of evidence shows that Officer A knew that Officer E's use of force was excessive, and a preponderance of evidence shows that Officer A failed to take appropriate action when he perceived the use of excessive force. Therefore, the Reporting Investigator recommends that this allegation be **Sustained**.

**2. Failed to perform any duty, in violation of Rule 5, in that he failed to immediately request medical attention for Subject 2 who displayed signs of medical distress / serious illness.**

CPD members are required to provide security and care for all persons coming into their custody<sup>69</sup> and to seek medical assistance for injured or ill arrestees.<sup>70</sup> When Officer A first saw Subject 2, Subject 2 was sweating profusely and was bleeding from his mouth. Within minutes, Officer A saw Subject 2 hitting his head against a parked patrol car. All the while, Officer A heard Subject 2 screaming unintelligibly and swearing. Officer A had just caught Subject 2 in an apparent garage burglary, but Subject 2 was not behaving like a typical burglar: he was making an extraordinary amount of noise and he immediately approached the responding officers.

Officers are not expected to act as medical professionals or to make medical diagnoses, but everything about Subject 2's appearance and behavior, as described by Officer A, made it obvious that Subject 2 was suffering from physical or mental illness, severe intoxication, or some combination of these factors. Additionally, Lieutenant A described Subject 2's eyes as glazed, and said that Subject 2 appeared to be high or intoxicated.<sup>71</sup> Officer K said that “it was obvious to most of us that he was under the influence of something; . . . we thought it was like PCP or Bath Salts.”<sup>72</sup> Officer A was continuously watching Subject 2 or in physical contact with Subject 2 throughout the incident, and was in the best position to observe Subject 2's appearance and behavior. And as the incident progressed, Officer A would observe Subject 2 continuing to slam his body against the ground, burn himself on the muffler of the patrol car, and strenuously resist officers' efforts to restrain him.

By Officer A's account, he was concentrating on restraining Subject 2 and preventing him from further injuring himself, and he thought that Subject 2's behavior was likely attributable to mental-health issues rather than the need for medical care. When confronted with his own observations that Subject 2 was bleeding from his mouth, flailing his body, and swearing, and asked why these observations did not prompt a call for medical assistance, Officer A replied, “At that . . . point . . . I was dealing with him moving around and stuff. So I didn't think about it. You know my main concern was stopping him from moving and stopping him from banging his head

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<sup>69</sup> Rules and Regulations of the Chicago Police Department, Art. IV.C.5.

<sup>70</sup> General Order G03-02, § III.H, and General Order G03-02-02, § IV.D.

<sup>71</sup> A Tr. 10:18-22, Aug. 11, 2015. (Attachment 73)

<sup>72</sup> Officer K Tr. 12:2-4. (Attachment 210)

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off our – the side of our car and then stopping him from moving around the car then. So I was more concentrating on that. I wasn't thinking about getting an ambulance there. That didn't come to mind.”<sup>73</sup>

Officer A's primary responsibility was to control Subject 2. The in-car camera video recording shows Officer A working diligently to restrain Subject 2 and to prevent Subject 2 from injuring himself. But the recording also shows that Officer A had time to use his radio to ask other responding officers to “step it up.” Also, there were periods of time, several minutes in length, when Subject 2 was staying still and when Officer A's hands were not occupied by holding Subject 2. Further, as the incident continued, more officers arrived on scene, and Officer A could have asked any of them to call for an ambulance. An ambulance was not requested until at least fifteen minutes after Officer A took Subject 2 into custody, when Lieutenant A instructed Officer D to do so. Even though Officer A's primary responsibility was to control Subject 2, he was also responsible to seek medical attention for an injured or ill arrestee. Officer A had the time and the opportunity to call for medical attention, but he did not do so.

Officer A has said that he didn't think about getting an ambulance to the scene. General Orders G03-02 and G03-02-02 require him to consider it. While there is no evidence to indicate that Officer A acted maliciously in denying medical attention to Subject 2, the preponderance of evidence indicates Subject 2 was in obvious need of medical attention and that Officer A failed to call for such attention. Based on the preponderance of evidence, Officer A failed to perform his required duty when he did not immediately call for an ambulance, and the Reporting Investigator therefore recommends that this allegation be **Sustained**.

**C. Officer D, #XXXX**

It is alleged that on July 20, 2015, at approximately 1:50 A.M., in the vicinity of XXXX S. Albany Avenue, that **Officer D, #XXXX**:

**1. Used improper and excessive force toward Subject 2 when he used his foot to restrain Subject 2.**

Rule 6 prohibits an officer from disobeying an order or directive, whether written or oral. The CPD's use of force model requires that members escalate or de-escalate to the amount of force which is reasonably necessary to overcome a subject's resistance and to gain control, and to modify their level of force in relation to the amount of resistance offered by the subject.<sup>74</sup>

At the time Officer D arrived at XXXX S. Albany, he had no information indicating that Subject 2 had committed a violent crime.<sup>75</sup> Officer D observed Subject 2 *in handcuffs* sitting against a police vehicle.<sup>76</sup> Upon Officer D's arrival, Subject 2 clearly did not pose a risk to anyone

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<sup>73</sup> Officer A Tr. 12:22-13:6, June 2, 2016. (Attachment 207)

<sup>74</sup> General Order G03-02-01, § II.C.

<sup>75</sup> Officer D Tr. 8:13-16, Sept. 4, 2015 (Att. 121).

<sup>76</sup> *Id.* at 7:23-30.

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except himself, and while Subject 2 began to struggle and to kick, there was no realistic possibility that he would defeat the arrest or escape. Under the totality of circumstances facing Officer D, a reasonable officer would only use the level of force necessary to gain control of Subject 2 and to prevent him from hurting himself.

Subject 2's attempts to roll away from officers and flail his body to avoid being held down could reasonably be classified as active resistance. Subject 2's apparent attempts to injure himself by striking his body against the ground or against the patrol vehicle, along with his kicks directed towards officers, could reasonably be classified as assaultive. Under the use-of-force framework discussed above, officers' responses to these actions could include holding techniques, powerful locks and pressures, and pins against the ground. An officer could use his or her feet, as well as his or her hands, to execute these techniques. But the officer's use of these techniques must still be reasonable under the circumstances, and must still be moderated based on the subject's actions.

The in-car camera video recording shows that Subject 2, while handcuffed, was rocking his body and moving along the ground on his buttocks from the front of the patrol car to the rear. Officer A was attempting to restrain Subject 2 by holding his shoulders, and Subject 2 pulled away and rolled onto his side. Officer A then pushed Subject 2's shoulders towards the car, and Subject 2 rolled towards the car while continuing to rock his body back and forth. Officer A then leaned down and placed his knee against Subject 2's chest while grabbing Subject 2's upper right arm, and Subject 2 continued to struggle. At this point that Officer D approached Subject 2 and placed his right foot on the right side of Subject 2's lower torso. After about one second, Officer D removed his right foot from Subject 2's torso and placed the same foot on the right side of Subject 2's head. Officer D appeared to exert downward pressure with his foot, and Subject 2's head moved towards the ground. The left side of Subject 2's head briefly touched the ground, but Subject 2 then lifted his head up and thrashed his right leg, kicking Officer D in the left thigh. This appeared to cause Officer D to lose his balance, and his foot slipped off Subject 2's head. Subject 2's right temple appeared to momentarily touch the patrol car's muffler after Officer D's foot slipped off. The total time when Officer D's foot was in contact with Subject 2's head was between two and three seconds.

Officer D said that he momentarily used his foot to restrain Subject 2. Officer D said that he remembered being told that "if you control his head . . . you control the body," while in training at the police academy.<sup>77</sup> Officer D said that he removed his foot from Subject 2's head because the technique didn't work, and that he then attempted to hold Subject 2's feet down instead. An officer using his foot to hold a resisting subject is not *per se* prohibited and is not *per se* unreasonable, but such a use of force must still be reasonable under the circumstances.

In this incident, Subject 2 was already handcuffed and on the ground when Officer D placed his foot on Subject 2's head, and another officer, Officer A, was already kneeling down and attempting to control Subject 2's upper body. It was not reasonable for Officer D to place his foot on Subject 2's head under these circumstances. The possibility of injuring Subject 2's head by stepping on it was high, and other options, such bending or kneeling down to hold Subject 2's

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<sup>77</sup> *Id.* at 15:9-11.

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torso or legs, were available. The primary danger that Subject 2's actions posed was to Subject 2 himself, and stepping on his head, even momentarily, was not a reasonable method to prevent him from injuring himself.

Because a preponderance of evidence shows that Officer D's use of force was not reasonable under the circumstances, Officer D violated Rule 6, and the Reporting Investigator recommends a finding of **Sustained**.

**2. Failed to perform any duty, in violation of Rule 5, when he failed to request medical assistance for Subject 2 who was in physical distress.**

CPD members are required to provide security and care for all persons coming into their custody<sup>78</sup> and to seek medical assistance for injured or ill arrestees.<sup>79</sup> When Officer D first saw Subject 2, he described Subject 2 as agitated, and he noted that Subject 2's breathing was labored and that he was sweating profusely. Officer D denied seeing that Subject 2 was bleeding, but the appearance of blood was obvious to other officers on the scene, and Officer D acknowledged using his flashlight to look at Subject 2. Within minutes of his arrival, Officer D saw Subject 2 thrashing on the ground, dragging his body back and forth. Officer D also heard Subject 2 screaming unintelligibly.

Officers are not expected to act as medical professionals or to make medical diagnoses, but everything about Subject 2's appearance and behavior, as described by Officer D, made it obvious that Subject 2 was suffering from physical or mental illness, severe intoxication, or some combination of these factors. Additionally, Lieutenant A described Subject 2's eyes as glazed, and said that Subject 2 appeared to be high or intoxicated.<sup>80</sup> Officer K said that "it was obvious to most of us that he was under the influence of something; . . . we thought it was like PCP or Bath Salts."<sup>81</sup> Officer D was watching Subject 2 or in physical contact with Subject 2 through the majority of the incident, and was in a good position to observe Subject 2's appearance and behavior. And as the incident progressed, Officer D would observe Subject 2 continuing to slam his body against the ground, burn himself on the muffler of the patrol car, and strenuously resist officers' efforts to restrain him.

By Officer D's account, it was "not the first time I came across an offender or a suspect who was acting erratic or sweating. . . So I didn't think he was in any type of duress of medical assistance at that time."<sup>82</sup> Officer D explained that an ambulance was called to transport Subject 2 to the hospital for a mental evaluation. Officer D said that he believed Subject 2 was drunk, and that "he had some scrapes on him from dragging himself around, but it wasn't anything serious. It

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<sup>78</sup> Rules and Regulations of the Chicago Police Department, Art. IV.C.5.

<sup>79</sup> General Order G03-02, § III.H, and General Order G03-02-02, § IV.D.

<sup>80</sup> Lieutenant A Tr. 10:18-22, Aug. 11, 2015. (Attachment 73)

<sup>81</sup> Officer K Tr. 12:2-4, June 10, 2016. (Attachment 210)

<sup>82</sup> *Id.* at 36:19-24.

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was just minor scrapes.”<sup>83</sup> Officer D’s primary responsibility was to control Subject 2. But Officer D was also responsible to seek medical attention for an injured or ill arrestee. Officer D had the time and the opportunity to call for medical attention, but he did not do so until approximately 15 minutes after he arrived, and only after being ordered to do so by Lieutenant A.

General Orders G03-02 and G03-02-02 required Officer D seek medical assistance for an ill or injured arrestee. While there is no evidence to indicate that Officer D acted maliciously in denying medical attention to Subject 2, the preponderance of evidence indicates Subject 2 was in obvious need of medical attention and that Officer D failed to call for such attention in a timely manner. Based on the preponderance of evidence, Officer D failed to perform his required duty when he did not call for an ambulance, and the Reporting Investigator therefore recommends that this allegation be **Sustained**.

**D. Officer F # XXXX**

It is alleged that on July 20, 2015, at approximately 1:50 A.M., in the vicinity of XXXX S. Albany Avenue, that **Officer F, # XXXX**:

- 1. Failed to perform any duty, in violation of Rule 5, in that he failed to intervene and/or ensure the safety of Subject 2 when he observed Officer E use improper and excessive force toward Subject 2 when Officer E used his foot to restrain Subject 2.**

CPD members are required to take appropriate action, which may include verbal or physical intervention, or immediate notification to a supervisor, when they know that another member is using excessive force against a subject.<sup>84</sup> A CPD member violates Rule 5 of the Rules and Regulations of the Chicago Police Department when they fail to perform any duty; this includes failing to take appropriate action when the member knows that another member is using excessive force against a subject.

To sustain an allegation that a member violated Rule 5 by failing to intervene when the member knew that another member was using excessive force, it must be shown by a preponderance of the evidence that the accused member both (1) knew that another member was using excessive force, and (2) failed to intervene.

The in-car camera video recording and officers’ statements about the incident show that when Officer F first approached Subject 2, Subject 2 was lying on the ground behind Beat XXXX’s vehicle. Subject 2 was handcuffed, but he was kicking his legs and struggling with POs Officer A and Officer D. Officer F approached from the mouth of the alley with POs Officer E and Officer G, while POs Officer B and Officer C approached from the open garage. Officer F immediately knelt down on Subject 2’s side, closer to Beat XXXX’s vehicle, and began assisting Officer A in holding Subject 2’s arms. At the same time, Officer E was placing his foot on Subject 2’s shoulder,

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<sup>83</sup> *Id.* at 37:8-10.

<sup>84</sup> General Order G03-02: Use of Force Guidelines, § III.E.

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neck, or head – but Officer E was not placing his entire weight on Subject 2. Officer F then stood up and walked back to Beat XXX’s vehicle to retrieve zip-ties to use on Subject 2’s legs. Officer F took slightly more than thirty seconds to retrieve the zip-ties, and Officer E adjusted his position and began standing on Subject 2 with all of his weight during this time. When Officer F returned with the zip-ties, he stood towards Subject 2’s feet, and then knelt down to apply the zip-ties with assistance from other officers.

When asked if he saw Officer E put his foot on Subject 2 at any time, Officer F replied, “I’m not sure. It was kind of a struggle trying to hold him down, so I’m holding one leg, you know, and my other partner is grabbing the other leg. Everyone’s trying to hold him down, so it was kind of – everyone is doing their part just to hold him down. So, I didn’t really see him, you know.”<sup>85</sup> Officer F was asked if he saw Officer E put his foot on Subject 2’s head, and he replied, “I – it wasn’t on his head. No, Ma’am.”<sup>86</sup> When asked if he saw Officer E put his foot on any part of Subject 2, Officer F replied, “I’m not exactly sure, but he was just trying to hold him down. So I believe it was his right shoulder area where he was trying to hold him down.”<sup>87</sup> Officer F explained that his perception of Officer E’s actions was not clear because “[t]here was a struggle. . . . I’m dealing with legs that are kicking, my other partner’s dealing with other legs that are kicking, so I’m not really sure.”<sup>88</sup> Officer F also said, “I don’t believe it was excessive. It was, you know, a struggle. So, you know, when we’re in the Academy we were taught that we can use our hands, our legs, our feet . . . to hold people back, that kind of stuff. And it didn’t seem excessive at the time.”<sup>89</sup>

Officer F’s certainty that Officer E’s foot was *not* on Subject 2’s head, combined with his assertion that Officer E was holding Subject 2 down by the right shoulder area, indicates that Officer F did, in fact, observe Officer E using his foot to restrain Subject 2. But Officer F’s description of the ongoing struggle and the chaotic nature of the scene, his description of his own actions in restraining Subject 2’s legs, and the fact that he left the immediate area to retrieve the zip-ties, supports his contention that he did not clearly see everything that Officer E did, and that he did not know, at the time, that Officer E’s use of force was excessive.

The video evidence shows that Officer E was standing on Subject 2 with all of his weight when Officer F returned with the zip ties, and there was nothing to obstruct Officer F’s view of this act. It is not clear, however, that Officer F did, in fact, observe Officer E standing on Subject 2 with all of his weight.

Because there is not sufficient evidence to prove or disprove this allegation by a preponderance of evidence, the Reporting Investigator recommends a finding of **Not Sustained**.

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<sup>85</sup> Officer F Tr. 10:19-24, June 7, 2016. (Attachment 209)

<sup>86</sup> *Id.* at 11:10.

<sup>87</sup> *Id.* at 11:13-16.

<sup>88</sup> *Id.* at 15:2-5.

<sup>89</sup> *Id.* at 16:15-20.

**2. Failed to perform any duty, in violation of Rule 5, in that he failed to immediately request medical attention for Subject 2 who displayed signs of medical distress/serious illness.**

CPD members are required to provide security and care for all persons coming into their custody<sup>90</sup> and to seek medical assistance for injured or ill arrestees.<sup>91</sup> Officer F was one of many officers who responded to this incident to assist officers who were already on scene. Officer F told IPRA that he believed someone else had already called for an ambulance, and he explained, “There was a lot going on. There was a lot of people around us, you know. So it wasn’t just us three; there was other police around us. So it sounded like people were calling. People are – other people were doing stuff too . . .”<sup>92</sup> Officer F’s primary role in this incident was to bring the zip-ties and to assist in restraining Subject 2’s legs.

Given the timing of his arrival and the role that he played, it was reasonable—if ultimately incorrect—for Officer F to believe that another officer had already called for an ambulance. While Officer F did not immediately request medical attention for Subject 2, his actions were reasonable based on his knowledge of the circumstances that existed at the time of the incident, and the Reporting Investigator recommends a finding of **Unfounded**.

**E. Officer G, # XXXX**

It is alleged that on July 20, 2015, at approximately 1:50 A.M., in the vicinity of XXXX S. Albany Avenue, that **Officer G, # XXXX**:

**1. Failed to perform any duty, in violation of Rule 5, in that he failed to intervene and/or ensure the safety of Subject 2 when he observed Officer E use improper and excessive force toward Subject 2 when Officer E used his foot to restrain Subject 2.**

CPD members are required to take appropriate action, which may include verbal or physical intervention, or immediate notification to a supervisor, when they know that another member is using excessive force against a subject.<sup>93</sup> A CPD member violates Rule 5 of the Rules and Regulations of the Chicago Police Department when they fail to perform any duty; this includes failing to take appropriate action when the member knows that another member is using excessive force against a subject.

To sustain an allegation that a member violated Rule 5 by failing to intervene when the member knew that another member was using excessive force, it must be shown by a

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<sup>90</sup> Rules and Regulations of the Chicago Police Department, Art. IV.C.5.

<sup>91</sup> General Order G03-02, Section III.H and General Order G03-02-02, Section IV.D.

<sup>92</sup> Officer F Tr. 29:11-15, June 7, 2016.

<sup>93</sup> General Order G03-02: Use of Force Guidelines, § III.E.

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preponderance of evidence that the accused member both (1) knew that another member was using excessive force, and (2) failed to intervene.

The in-car camera video recording from Beat XXXX shows that Officer G stood near Subject 2's feet when he initially arrived, and that Officer F was standing, and then kneeling, between Officer G and Officer E. Subject 2 appeared to be strenuously kicking his legs, and Officer G appeared to look down while Officer B struggled to control Subject 2's legs. Officer G then stepped further towards Subject 2's feet, with PO's Officer B, Officer A, and Officer F between Officer G and Officer E. When Officer F returned with the zip-ties, Officer F's body blocked the camera's view of Officer G. To the extent that Officer G was visible, he appeared to be bending down and assisting POs Officer F and Officer D.

When Officer G was asked if he saw Officer E put his foot on Subject 2, he replied, "I don't recall him having his foot on there. We were busy doing, trying to get him under control of his feet at the time. . . . As I said before earlier in the statement, that when we arrived there, he was kicking his legs back and forth, acting very erratically. So, we were given zip ties and we were able to control, get control of his feet so that he would not hurt himself or officers."<sup>94</sup> Officer G's account of what he saw is uncontroverted, and it is consistent with the video evidence.

Because a preponderance of evidence shows that Officer G was not aware that Officer E was using excessive force, the Reporting Investigator recommends a finding of **Unfounded**.

**2. Failed to perform any duty, in violation of Rule 5, in that he failed to immediately request medical attention for Subject 2 who displayed signs of medical distress / serious illness.**

CPD members are required to provide security and care for all persons coming into their custody<sup>95</sup> and to seek medical assistance for injured or ill arrestees.<sup>96</sup> Officer G was one of many officers who responded to this incident to assist officers who were already on scene. Officer G responded to the allegation that he failed to request medical attention for Subject 2 by saying, "We got there and he was very erratic. He was yelling, he was screaming. There were more than one officer telling him to please relax, take it easy, relax, trying to calm the situation, more than one officer. He was on his stomach, lifting his legs, kicking his feet into the cement, which isn't good for him or for officers. So, you know, we were trying to restrain him and there were many calls on the air and there were some that started to get frantic that they needed help there. We arrived and we helped restrain his legs."<sup>97</sup> Officer G said that he did not know if Subject 2 was suffering from any kind of mental illness, under the influence of drugs or alcohol, or if he was injured.<sup>98</sup> Officer

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<sup>94</sup> Officer G Tr. 7:14–8:1, June 7, 2016. (Attachment 211)

<sup>95</sup> Rules and Regulations of the Chicago Police Department, Art. IV.C.5.

<sup>96</sup> General Order G03-02, § III.H and General Order G03-02-02, § IV.D.

<sup>97</sup> Officer G Tr. 11:13–12:2.

<sup>98</sup> *Id.* at 12:11-23.

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G said that while he did not call for an ambulance, he heard someone else call for an ambulance while he was on the scene; he could not remember who made the call.

When asked if he believed Subject 2 needed medical attention, Officer G said that “what I believe is at the time that you weren’t going to be able to safely transport him in a wagon . . . I’m not a doctor. So, I mean there’s sometimes where people you don’t know, you don’t know if they’re acting erratically because they just don’t want to get arrested. I’m not a doctor. So . . . when . . . he started . . . acting erratically and screaming, yelling again, I guess somebody thought that yes, an ambulance was necessary to secure him instead of putting him in the back of a wagon.”<sup>99</sup>

Given the timing of his arrival and the role that he played, it was reasonable for Officer G to rely on the earlier-arriving officers to have more fully assessed Subject 2’s condition. Officer G’s role was to assist in securing Subject 2’s legs. While Officer G did not immediately request medical attention for Subject 2, his actions were proper based on his knowledge of the circumstances that existed at the time of the incident, and the Reporting Investigator recommends a finding of **Unfounded**.

### F. Lieutenant A. #XXXX

It is alleged that on July 20, 2015, at approximately 1:50 A.M., in the vicinity of XXXX S. Albany Avenue, that **Lieutenant A, #XXXX** :

1. **Failed to perform any duty, in violation of Rule 5, in that he failed to intervene and/or ensure the safety of Subject 2 when he observed a subordinate, Officer E, use improper and excessive force toward Subject 2 when Officer E used his foot to restrain Subject 2.**

CPD members are required to take appropriate action, which may include verbal or physical intervention, or immediate notification to a supervisor, when they know that another member is using excessive force against a subject.<sup>100</sup> A supervisor, such as Lieutenant A, has responsibility for the performance of all subordinates placed under them. A CPD member violates Rule 5 when they fail to perform any duty; this includes failing to take appropriate action when the member knows that another member is using excessive force against a subject, or failing to take supervisory action when the member knows that a subordinate is using excessive force against a subject.

To sustain an allegation that a member violated Rule 5 by failing to intervene when the member knew that another member was using excessive force, it must be shown by a preponderance of the evidence that the accused member both (1) knew that another member was using excessive force, and (2) failed to intervene.

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<sup>99</sup> *Id.* at 24:12–25:3.

<sup>100</sup> General Order G03-02: Use of Force Guidelines, § III.E.

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The in-car camera video recording shows Lieutenant A arriving at the scene of this incident. As Lieutenant A walked into the alley and approached Subject 2's location, he began to assess the situation, and he contacted OEMC by radio to let the dispatcher know that the scene was secure. He then observed the officers who were restraining Subject 2, noted that zip-ties were being applied to Subject 2's legs, and contacted OEMC by radio again to let them know that shackles were no longer needed.<sup>101</sup> Approximately 40 seconds after Lieutenant A arrived, all of the officers who were restraining Subject 2, including Officer E, stepped back and were no longer in physical contact with Subject 2. Lieutenant A told IPRA that he instructed the officers to step back: "Well, all officers, we were all communicating, trying to . . . figure out what . . . we were gonna do next, and I remember speaking . . . to one officer, who I still don't know exactly who that is. But I said out loud to a couple of people, 'Let's just, you know, if he wants to – something to the effect of, if he wants to just sit up, as long as he's not banging his head anymore, or hurting himself, let's just step away from him, and . . . let him sit up . . . [W]e don't need to, you know, hold him down, unless he's hurting himself."<sup>102</sup>

None of the officers who were present told investigators about Lieutenant A's order, and Lieutenant A was facing away from the camera that recorded the incident, so it is not possible to see him speaking. But the coordinated manner in which all of the officers holding Subject 2 backed away, in unison, after Lieutenant A arrived corroborates Lieutenant A's account of his words and actions. The fact that Lieutenant A would later say that he did not observe Officer E use excessive force is irrelevant; Lieutenant A is not accused of inaccurately judging Officer E's actions – he is accused of failing to intervene. Whatever Lieutenant A thought about Officer E's use of force, a preponderance of evidence shows that Lieutenant A did, in fact, intervene. Officer E's use of force ceased after Lieutenant A ordered it to cease, and Lieutenant A gave the order in a timely manner. Because Lieutenant A did intervene to stop Officer E's use of force, the Reporting Investigator recommends a finding of **Unfounded**.

**2. Failed to perform any duty, in violation of Rule 5, in that he failed to immediately request medical attention for Subject 2 who displayed signs of medical distress / serious illness.**

CPD members are required to provide security and care for all persons coming into their custody<sup>103</sup> and to seek medical assistance for injured or ill arrestees.<sup>104</sup> Lieutenant A said that when he arrived, Subject 2 appeared to be high or intoxicated, and the lieutenant observed Subject 2

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<sup>101</sup> Lieutenant A's communications with OEMC also served an important public safety function; responding officers needed to be told to slow their response. Some degree of danger is inherent in police emergency driving, and the lieutenant would have been justifiably concerned about additional officers who were still responding to the call for assistance.

<sup>102</sup> Lieutenant A Tr. 24:20-25:5, June 1, 2016. (Attachment 206)

<sup>103</sup> Rules and Regulations of the Chicago Police Department, Art. IV.C.5.

<sup>104</sup> General Order G03-02, § III.H and General Order G03-02-02, § IV.D.

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struggling with officers and kicking his legs. When Lieutenant A asked Subject 2 if anything was wrong, Subject 2 failed to respond. Many officers who were also there said that Subject 2 was obviously bleeding from his face or mouth. The most vivid description of the scene that Lieutenant A encountered in the alley was provided by Officer K, who said:

I guess the best way you can say it, it looked like he was possessed by the devil, if you can – yeah, that's the description that I could give. He was screaming all kinds of obscenities, things that made no sense; screaming for God one second, screaming for the devil the other, screaming for his mother; flopping around liked a fish out of water on the ground. It was obvious to everybody at the scene that he had to have been on some kind of drug, because no normal human being could act like that. The strength that he uh, possessed, was – any other man in any normal circumstances would have been exhausted by that. 'Cause the – the amount of uh, resistance that he – he was giving towards the officers, even though he was handcuffed, zip-tied and everything, . . . he continued to resist and fight at every moment that he could. The only time that he stopped was to catch his breath for that one short moment. I – I mean, to crawl underneath a squad car, press your stomach against the hot exhaust of a Ford, Explorer, and still be able to lift the car up, zip-tied and handcuffed, I mean, that's not normal.<sup>105</sup>

Unlike the officers from Beat XXX,<sup>106</sup> Lieutenant A was not physically involved in restraining Subject 2, and Lieutenant A had the opportunity – and the obligation as a supervisor – to assess the scene as a whole. A preponderance of evidence shows that Lieutenant A never recognized that Subject 2 required immediate medical attention. Lieutenant A only ordered Officer D to call for an ambulance after he determined that Subject 2 could not safely be transported in the prisoner transport van. At that point, Lieutenant A was concerned that Subject 2 could be injured during his trip to the hospital for a mental health evaluation – not that Subject 2 was already suffering from a physical injury or illness. Lieutenant A explained, “When we put ‘em in the wagon he was still thrashing about it and looked like he might’ve been having trouble breathing. I couldn’t really tell. Um and combination with being high or appeared to be high to me and uh he was still thrashing about and I was concerned about having him safely transported and, and in the wagon as well. So with all of those factors I said let’s call for an ambulance.”<sup>107</sup> Lieutenant A further clarified the timing of the ambulance request: “I’d say right about when we placed ‘em in the van and I could get a good I don’t know a better look. You could see uh with the lighting I could see a lil bit better but he was still thrashing around. And then I realized we wouldn’t be able to secure ‘em properly either. And then I kinda noticed his breathing was labored a lil. So at that point I

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<sup>105</sup> Officer K Tr. 74-75. (Attachment 210)

<sup>106</sup> Officers Officer F, Officer G, and Officer E.

<sup>107</sup> Lieutenant A Tr. 11:20-29, Aug. 11, 2015. (Attachment 73)

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mean right after we put ‘em in the van maybe you know we were preparing to transport ‘em and I just decided it wasn’t a good idea. Let’s call for an ambulance.”<sup>108</sup>

Officer K recounted the same decision-making process, and said that Lieutenant A specifically referred to a recent incident in Baltimore where a prisoner died from an apparent spinal-cord injury after being transported, unsecured, in the back of a van. Further, a preponderance of evidence shows that Lieutenant A allowed the doors to the transport van to be closed, or partially closed, leaving Subject 2 alone in the prisoner compartment while they waited for the ambulance.<sup>109</sup> Given all that Lieutenant A had observed, and his specific observation that Subject 2 was having some difficulty breathing while in the van, it was inappropriate not to monitor Subject 2’s condition while waiting for the ambulance.<sup>110</sup>

Lieutenant A did, eventually, order that an ambulance be called. And had Subject 2 lived, it is doubtful that Lieutenant A’s motivation for calling the ambulance would ever have been questioned. But Subject 2 died, and Lieutenant A’s motivation for calling the ambulance affected the timing of the call and the instructions that Lieutenant A gave to officers after the ambulance was called. Approximately seven to eight minutes elapsed between the time Lieutenant A arrived on scene at approximately 1:17 a.m. and the time that the ambulance was called at approximately 1:25 a.m. While waiting for the ambulance, Subject 2 was left alone in the rear of the prisoner transport van for an unknown amount of time, possibly as long as seven minutes. Moreover, Officer K said that Lieutenant A called the officers out of the prisoner transport van while they were waiting for the ambulance. The evidence indicates that these delays happened because Lieutenant A did not recognize that Subject 2 required immediate medical attention and instead was primarily concerned with Subject 2 being transported securely. Based on Subject 2’s physical condition, his observed actions, and his apparent mental state, Lieutenant A should have recognized that a potential medical emergency existed, and he should have summoned an ambulance sooner.<sup>111</sup> Because a preponderance of evidence shows that Lieutenant A failed to immediately request medical attention when Subject 2 displayed signs of medical distress or serious illness, the Reporting Investigator recommends a finding of **Sustained**.

## VI. FINDINGS

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<sup>108</sup> *Id.* at 12:30-13:9.

<sup>109</sup> Some witnesses described the van doors as open, while others described them as closed or partially closed. The van had two sets of doors: outer double doors and a single inner door. It is likely that officers who described the doors as being open were referring to the outer doors. Officer T, who was standing by the back of the van, very specifically recalled that the inner door to the prisoner compartment was closed, while the outer doors remained open. Officer T remembered that other officers opened the inner door for the paramedics when they arrived. Officer T Tr. 15:3-23. (Attachment 170)

<sup>110</sup> Section IV of General Order G03-02-02 requires that after a use of force, an arrestee must be monitored until transported to a secure location.

<sup>111</sup> Special Order S03-06 allows for the use of a squadrol to transport a sick or injured arrestee to the hospital for medical treatment, but this order also makes it clear that a squadrol can be used for this purpose only if a medical emergency exists and an ambulance is not available. If an ambulance is available, the ambulance should be used to transport the arrestee. In this case, Lieutenant A made the initial decision to transport Subject 2 in the squadrol without checking to see if an ambulance was available; Lieutenant A gave the order to call for the ambulance later.

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After a thorough review of the evidence and the applicable law, COPA makes the following findings:

### A. Officer E

**Allegation #1** - Used improper and excessive force toward Subject 2 when he used his foot to restrain Subject 2 is **Sustained**.

**Allegation #2** - Failed to complete and submit a Tactical Response Report (TRR) to report/document the use of force he utilized toward Subject 2 is **Sustained**.

### B. Officer A

**Allegation #1** - Failed to perform any duty, in violation of Rule 5, in that he failed to intervene and/or ensure the safety of Subject 2 when he observed Officer E use improper and excessive force toward Subject 2 when Officer E used his foot to restrain Subject 2 is **Sustained**.

**Allegation # 2** - Failed to perform any duty, in violation of Rule 5, in that he failed to immediately request medical attention for Subject 2 who displayed signs of medical distress /serious illness is **Sustained**.

### C. Officer D

**Allegation # 1** - Used improper and excessive force toward Subject 2 when he used his foot to restrain Subject 2 is **Sustained**.

**Allegation # 2** - Failed to perform any duty, in violation of Rule 5, when he failed to request medical assistance for Subject 2 who was in physical distress is **Sustained**.

### D. Officer F

**Allegation #1** - Failed to perform any duty, in violation of Rule 5, in that he failed to intervene and/or ensure the safety of Subject 2 when he observed Officer E use improper and excessive force toward Subject 2 when Officer E used his foot to restrain Subject 2 is **Not Sustained**.

**Allegation # 2** - Failed to perform any duty, in violation of Rule 5, in that he failed to immediately request medical attention for Subject 2 who displayed signs of medical distress / serious illness is **Unfounded**.

### E. Officer G

**Allegation # 1** - Failed to perform any duty, in violation of Rule 5, in that he failed to intervene and/or ensure the safety of Subject 2 when he observed Officer E use improper and excessive force toward Subject 2 when Officer E used his foot to restrain Subject 2 is **Unfounded**.

**Allegation # 2 -** Failed to perform any duty, in violation of Rule 5, in that he failed to immediately request medical attention for Subject 2 who displayed signs of medical distress / serious illness is **Unfounded**.

**F. Lieutenant A**

**Allegation # 1 -** Failed to perform any duty, in violation of Rule 5, in that he failed to intervene and/or ensure the safety of Subject 2 when he observed a subordinate, Officer E, use improper and excessive force toward Subject 2 when Officer E used his foot to restrain Subject 2 is **Unfounded**.

**Allegation # 2 -** Failed to perform any duty, in violation of Rule 5, in that he failed to immediately request medical attention for Subject 2 who displayed signs of medical distress / serious illness is **Sustained**.

**VII. CONCLUSION**

The Chicago Police Department's Rules and Regulations set forth the following:

A recognition of individual dignity is vital in a free system of law. Just as all persons are subject to the law, all persons have a right to dignified treatment under the law, and the protection of this right is a duty which is binding on the Department and each of its members, as any other. Every member must treat each person with respect and he must be constantly mindful that the people with whom he is dealing are individuals with human emotions and needs. Such recognition and conduct is

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not an additional duty imposed to a member's primary responsibilities, it is inherent in them.<sup>112</sup>

This mandate to respect the dignity and safety of every citizen binds officers even when they are confronted with difficult situations. While COPA does not find that the accused in this case directly caused Subject 2's death, in the struggle leading up to his death, Lieutenant A and Officers Officer E, Officer A, and Officer D failed to treat Subject 2 with the dignity and due care that he deserved.

Approved:

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Deputy Chief Administrator

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Deputy Chief Administrator

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<sup>112</sup> Rules and Regulations of the Chicago Police Department, Art. I.B.10.